

**Victim's Rights Group Announces Campaign Kickoff**

**Lawmaker: CAUV Formula A 'Major Butt-Kicker' For Farmers**

**Insurers, Regulators Eyeing DC For Health Policy Changes**

**Survey Shows Restaurant Owners Optimistic; Cedar Fair Has Record Fiscal Year; Diebold, DDR Report Financials**

**Supplemental Agency Calendar**

**Supplemental Event Planner**

**Senate Committee Hearings**

**Ways & Means**

**Government Oversight & Reform**

**Education**

**House Committee Hearings**

**Transportation & Public Safety**

**Civil Justice**

**Finance**

**Insurance**

**Health**

**Finance: Agriculture, Development & Natural Resources Sub.**

**Community & Family Advancement**

**Finance: State Government & Agency Review Sub.**

## ACTIVITY REPORTS

House

Senate

## CALENDARS

Day Planner

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## House Activity for Wednesday, February 15, 2017

### INTRODUCED

- HB 64** ■ **RECORD EXPUNGEMENT** (Schuring, K., Reece, A.) To provide for the expungement of official records related to the apprehension, arrest, criminal charging, or trial of a person based on mistaken identity. Am. 2953.51, 2953.52, 2953.53, 2953.54, 2953.55, and 2953.61.
- HB 65** ■ **SANITARIAN REVIEWS** (Hill, B.) To require the Director of Agriculture and the Director of Health to adopt rules governing reviews of registered sanitarians and sanitarians-in-training who conduct inspections of retail food establishments and food service operations. En. 3717.042.
- HB 66** ■ **TENURED FACULTY** (Young, R.) To require permanently tenured state university or college faculty members to teach at least three credit hours of undergraduate courses per semester. Am. 3345.45 and to enact section 3345.451.
- HB 67** ■ **JUDGMENT CONFESSIONS** (Young, R.) To prohibit a person from obtaining a confession of judgment from another person except in connection with the settlement of a dispute. Am. 1337.53, 2323.12, and 2323.13 and to repeal sections 1907.09 and 2323.14.
- HB 68** ■ **VOYEURISM** (Anielski, M.) To include an impaired person as a potential victim of voyeurism, to include conduct involving an impaired person within the offenses of pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, and illegal use of a minor in a nudity-oriented material or performance, and to prohibit an owner, operator, administrator, or employee of a care facility from creating, sharing, reproducing, or publishing any image of a care facility resident without a proper purpose and without prior written consent from the resident. Am. 2903.33, 2903.34, 2907.08, 2907.321, 2907.322, 2907.323, and 2929.13.
- HB 69** ■ **TIF DISTRICTS** (Cupp, R.) To require reimbursement of certain township fire and emergency medical service levy revenue forgone because of the creation of a municipal tax increment financing district. Am. 5709.40.

**HB 70** ■

**FUEL TAX DISPLAYS (Merrin, D.)** To enact the "Fuel Tax Transparency Act" requiring stickers to be placed on retail service station pumps displaying the rates of federal and state taxes applicable to gasoline and diesel fuel. En 5735.50.

## **PASSED**

**HB 4** ■

**COCAINE OFFENSES (Cupp, R., Rogers, J.)** To provide that in determining the amount of cocaine for trafficking and possession offenses, it also includes a compound, mixture, preparation, or substance containing cocaine, and to declare an emergency.

EMERGENCY: 95-1 (Brinkman); BILL: 97-0

Gongwer Coverage

**HB 11** ■

**TAX LAWS (Scherer, G.)** To expressly incorporate changes in the Internal Revenue Code since February 14, 2016, into Ohio law.

97-0  
Gongwer Coverage

**HB 32** ■

**CASINO EMPLOYEES (Seitz, B.)** To specify that the criminal penalty related to casino operators and employees participating in casino gaming applies at their casino facility or an affiliated casino facility.

94-3 (Antani, Ginter, T. Johnson)

Gongwer Coverage

## **COMMITTEE HEARINGS**

### **Transportation & Public Safety**

**HB 16** ■

**ROAD NAMING (Cera, J.)** To designate a portion of State Route 43 in Jefferson County as the "Army Corporal Carl H. Bernhart Memorial Highway." (REPORTED (No testimony); 2nd Hearing-All testimony-Possible vote)

**HB 22** ■

**ROAD NAMING (Hambley, S.)** To designate a portion of State Route 261 in Medina and Summit Counties as the "Sergeant James F. Allen III Memorial Highway." (REPORTED; 2nd Hearing-All testimony-Possible vote)

Asley Rae Yeager submitted written testimony in support. "The significance of having a memorial highway designated in his name would mean so much to me personally, his daughter Natalie, son Tristan, as well as friends, family, and military comrades," she wrote.



"It will also stand as a daily encouragement to continue his legacy through goodwill and advocacy."

**HB 9** **TRAFFIC SIGNALS (Koehler, K.)** To specify that the alternative protocol for proceeding into an intersection with malfunctioning traffic lights due to a failure of a vehicle detector applies only to bicycles. (REPORTED; 2nd Hearing-All testimony-Possible vote)

Sgt. Nick Konves, of the Columbus Police Bicycle Coordination Unit, testified in support, saying he became aware of the bill that passed last session (HB154, 131<sup>st</sup> General Assembly) after seeing news reports and was concerned that any type of vehicle could treat red lights as stop signs in certain instances. He cited "blind intersections," differences between stop signs and traffic signals at intersections and the potential for crashes at the crossroads.

He said the prior legislation, which allows vehicles to proceed through malfunctioning traffic signals, allows for too much discretion. "This makes enforcement and prosecution very difficult and nearly impossible," he said. "I have testified many times in various court systems during my career and I foresee this causing a big problem for prosecution."

Responding to a question from **Rep. Michael Sheehy** (D-Oregon), the witness said that under the bill a bicycle could still proceed through an untriggered traffic signal after a "reasonable amount of time."

Patricia Kovacs, of the Ohio Bicycle Federation, said the bill passed last session should stand and allow for all motor vehicles to proceed through malfunctioning traffic signals. At minimum, motorcycles should also be included because they face the same issues as bicycles, she said.

"This law should really apply to any vehicle," she said.

**Subscribers Note:** Full testimony is available on the committee's website under Feb. 15. **Civil Justice**

**HB 1** **DATING PROTECTION ORDERS (Sykes, E., Manning, N.)** To authorize the issuance of dating violence protection orders with respect to conduct directed at a petitioner alleging dating violence, to provide access to domestic violence shelters for victims of dating violence, and to require the Attorney General's victim's bill of rights pamphlet to include a notice that a petitioner alleging dating violence has the right to petition for a civil protection order. (CONTINUED (See separate story); 1st Hearing-Sponsor & proponent)

**HB 7** **MEDICAL PROVIDER IMMUNITY (Cupp, R.)** To grant qualified civil immunity to certain medical providers who provide emergency medical services as a result of a disaster; to provide that certain communications made regarding an unanticipated outcome of medical care, the development or implementation of standards under federal laws, and an insurer's reimbursement policies on health care are inadmissible as evidence in a medical claim; to provide that medical bills itemizing charges are inadmissible as evidence and an amount accepted as full payment for medical services is admissible as evidence of the reasonableness of the charges; to specify the

manner of sending a notice of intent to file a medical claim and provide a procedure for the discovery of other potential claims within a specified period after the filing of a medical claim; to provide that any loss of a chance of recovery or survival by itself is not an injury, death, or loss for which damages may be recovered; to provide civil immunity to certain medical providers regarding the discharge of a patient with a mental condition that threatens the safety of the patient or others; to require that governmental agencies that receive peer review committee records maintain their confidentiality; and to clarify the definition of "medical claim." (CONTINUED; 1st Hearing-Sponsor)

**Rep. Robert Cupp** (R-Lima) described his bill as the product of months of talks with the Ohio State Medical Association and the Ohio Hospital Association. The Ohio Association for Justice, however, is "not on board" with all of the bill's provisions, he acknowledged. He said the bill would "fill in some of the gaps" in ten areas of existing medical malpractice tort law.

"An unfavorable medical liability climate can lead to expansive and expensive litigation, expensive and sometimes hard to obtain liability insurance, and a diminished supply of medical professionals to meet the needs of patients," he said. "Although the medical malpractice climate in Ohio has significantly improved in the past decade or so as a result of enactments by the General Assembly, there are several things which can further improve medical tort liability law and practice."

According to Rep. Cupp's overview, the bill would:

- Label communications from health care providers communicating error or fault to the list of inadmissible documentation.
- Reduce the need to sweep into the lawsuit unnecessary defendants.
- Permit a notice of intent to file a medical claim to be served by certified mail rather than in person.
- Abrogate the loss of chance theory of tort liability by restoring the "traditional concept of causation by abolishing the judicially-created loss of less than even chance of recovery theory of liability."
- Prevent insurance reimbursement policies from establishing a legal standard of care for medical tort liability.
- Correct existing language regarding nursing home plans of care by exempting hospitals and other providers from the language.
- Maintain the confidentiality of peer review records but clarify that they may be provided to regulators without losing confidential status.
- Prohibit the introduction of "phantom damages" into evidence.
- Provide limited immunity for certain healthcare providers or hospitals acting in good faith and in concert with professional standards when medically discharging a patient who has a mental health condition that may threaten the safety of the patient or others.
- Establish a different liability standard for medical care in the event of a widespread disaster event resulting in "widespread personal injury (or) loss of life that results from any natural or technological phenomenon or act of a human, or an epidemic."

Lawmakers raised several questions about the bill, including several focused on provisions labeling certain communications inadmissible and prohibiting the introduction of phantom damages into evidence.

Rep. Nicholas Celebrezze (D-Parma), for example, questioned whether it was within legislative purview to modify the rules of evidence. And Rep. Bill Seitz (R-Cincinnati) asked whether the phantom evidence provision might deter patients from seeking health insurance. Rep. Kristin Boggs (D-Columbus) asked who or what would determine whether a disaster qualifies under the bill. Rep. Cupp said that area of the bill could use some extra defining, although his inclination is to allow the jury to decide.

**Subscribers Note:** For full testimony, see the committee's website under Feb. 15.

#### **Finance**

**HB 26** **TRANSPORTATION BUDGET (McColley, R.)** To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of those programs.  
(CONTINUED (See separate story); 3rd Hearing-All testimony)

**Subscribers Note:** Full testimony is available on the committee's website under Feb. 15.

#### **Insurance**

See separate story.

#### **Health**

The panel met briefly to accept the committee's rules for the new session and have members introduce themselves.

Chair Rep. Steve Huffman said the panel would not be meeting next week, and would not meet on Wednesday, April 5, the day after Gov. Kasich's State of the State address, which is scheduled to be held in Sandusky.

#### **Finance: Agriculture, Development & Natural Resources Sub.**

The panel started its budget review work with testimony from Sarah Creedon, executive director of the Liquor Control Commission. (Redbook)

"The Commission is an adjudicatory and rule-making agency that oversees Ohio's alcohol beverage industry. The agency's mission is to provide fair and impartial hearings to protect the public and the permit holders, and to ensure compliance with Ohio liquor laws and administrative rules," she said. "The agency also adopts and promulgates rules, standards, and requirements regarding alcohol sales in Ohio."

Ms. Creedon said the commission works with the Ohio Investigative Unit, the Attorney General's Office, the Division of Liquor Control, and the Department of Taxation to achieve its mission.

"The Division of Liquor Control is responsible for processing applications and issuing liquor permits. Permit holders can appeal division decisions rejecting liquor permit applications and renewals to the commission. As an adjudicatory body, the commission functions as an administrative court with the same duties and obligations of any court," she explained.

The executive budget provides LCC with \$844,553 in Fiscal Year 2018, which is an 4% over estimated FY 2017 spending, and \$851,269 in FY 2019, which is an increase of 1% from the

prior year. Ms. Creedon said the money for commission operations comes from a portion of liquor permit fee revenue.

"While the commission receives no GRF funding, the commission does contribute to the GRF by depositing all revenue it collects from financial forfeitures issued against permit holders for violations of Ohio's liquor laws and rules," she said. "In fiscal year 2016, the commission collected over \$1.2 million in financial fines and forfeitures and deposited those funds into the GRF. In the current fiscal year to date, over \$1 million was collected and deposited into the GRF."

**Rep. Brigid Kelly** (D-Cincinnati) asked about the impact of the growing craft brew industry on the panel. Ms. Creedon said that while permit requests have increased, she hasn't seen a related uptick in cases before the commission.

She similarly told **Rep. Michael O'Brien** (D-Warren) that she couldn't correlate a caseload increase because of the Investigative Unit's transfer to the Highway Patrol a few years ago. Ms. Creedon told Rep. Kelly that the commission plans updates to its database and other improvements with the additional funds in the budget.

**Racing Commission:** Executive Director William Crawford briefed the committee on the operations of the commission, which regulates horseracing in the state. It also uses no GRF, and instead is funded through taxes on wagers, licensing fees, other fees and fines, and a small percentage of casino revenue, he said. **(Redbook)**

"The majority of the Racing Commission's expenditures are for subsidies to the horseracing industry in the form of additions to purses at live horse races as well as supplements to purses for Ohio horses that win races at Ohio tracks and other promotional expenses," he said. "Regulation expenses include administration expenses which also include officials and veterinarians as well as drug-testing expenses, expenses that relate to investigation, licensing and the enforcement of rules."

The commission's budget request is about \$32.3 million a year over the upcoming biennium. In addition to the five commission members, RAC currently staffs eight full-time and seven part-time positions, according to the Legislative Service Commission. The agency contracts with two stewards, two judges, and five veterinarians.

Chairman **Rep. Andy Thompson** (R-Marietta) asked if declining casino and VLT revenue, which makes up a big chunk of the agency's budget, has impacted its finances. Mr. Crawford said it has not done so considerably.

Rep. Kelly asked about efforts to ensure safety for riders and horses.

Mr. Crawford said the inspection of racing surfaces, which the commission oversees, is the main concern in that regard and that stewards watch races to make sure they are run safely. He told Rep. O'Brien that stewards can cancel races when the temperature dips below a minus 10-degree wind chill factor or following consultation with jockeys and drivers.

Responding to the chairman, the witness said the commission spends about \$1.6 million a year on its drug testing program and investigating potential cheats is "a major concern of ours."

Racing Chairman Robert Schmitz briefly addressed the committee, explaining that the bulk of Ohio's racing industry is tied to Standardbreds and that with the installment of video lottery terminals at horse racetracks, has seen a resurgence after several years of declines.

A Standardbred breeder himself, Mr. Schmitz allowed that he bred his stock outside of Ohio for many years but now there's better breeding stock and other improvements due in part to increased funding from VLTs.

He said racing's impact to the state's agricultural industry is a "very, very big business."

**Sea Grant Program:** Christopher Winslow, director of the Ohio Sea Grant College Program, F.T. Stone Laboratory, and the Center for Lake Erie Area Research, testified in support of the program's budget and outlined its various education, research and outreach initiatives. (Testimony)

The program receives just under \$300,000 a year in state funding, which is used to leverage federal grants. (ODHE-Agriculture Redbook) The director said the program draws down about \$10 from other sources for every dollar of state funding it receives.

"Historically, Ohio Sea Grant has managed 8-10 research projects annually (~\$480,000).

However, since April of 2015, we have increased that research portfolio dramatically. We currently have 119 projects listed within OSU's Office of Sponsored Program's research database," Mr. Winslow said in prepared testimony.

"The program is currently managing \$5 million in funding from the Ohio Department of Higher Education (ODHE; \$4 million in two \$2 million allocations) and OSU's College of Food and Agricultural Sciences (Field to Faucet Initiative; \$1 million) to address Lake Erie harmful algal blooms."

Mr. Winslow said Ohio Sea Grant and Stone Laboratory "are exceptional programs and assets to the entire state."

"We solve environmental problems (more than 50 ongoing research projects), enhance the local economy (i.e., business retention and expansion programming), inform decision makers, and improve the quality of science education in Ohio," he continued. "I would argue that since we first received funds in 1983, we have annually demonstrated that our line item is not a cost to Ohio, but a wise investment of valuable state funds."

Chairman Thompson lauded the public involvement promoted by the program and asked about invasive species.

The director said invasive mussels are "not going anywhere," and cited gobies as another example of non-native species that have infiltrated the Great Lakes. He said researchers are keeping an eye on four species of Asian carp, as they have made it up the Mississippi River drainage area to within 30 miles south of Lake Michigan.

Responding to questions about algae bloom research, he said the main source of nutrients that cause the problem can be traced to agriculture land management practices but that researchers aren't in the "finger-pointing" business. He said the group taps funds from two endowments to finance educational workshops for farmers on best practices in that regard.

Mr. Winslow also told members of the committee that he is working with donors to generate funding for equipment upgrades.

In response to a question from Rep. Scott Lipps (R-Franklin), he said buoys used for water quality research cost \$50,000-80,000 apiece.

## **Community & Family Advancement**

**HB 36**

**MARRIAGE CEREMONIES (Vitale, N.)** To provide that an ordained or licensed minister or religious society is not required to solemnize a marriage

and a religious society is not required to allow any building or property of the religious society to be used to host a marriage ceremony if the marriage does not conform to the ordained or licensed minister's or religious society's sincerely held religious beliefs, to provide that an ordained or licensed minister or religious society is not subject to civil or criminal liability for such a denial, and to provide that the state and political subdivisions may not penalize or withhold benefits to an ordained or licensed minister or religious society for such a denial. (CONTINUED-AMENDED (See separate story); 2nd Hearing-Proponent)

**Subscriber's note:** Full testimony is available on the committee's website under Feb.15.

**Finance: State Government & Agency Review Sub.**

The subcommittee began its review with the Board of Embalmers and Funeral Directors.

**(Redbook)**

Tim Derickson, the board's director, testified that a significant issue the agency is facing is the increasing problems with pre-need funeral services, in which a person pays in advance for the service. Cash-strapped funeral service providers sometimes use that prepaid money, which is supposed to be saved until the service is needed, to meet their bottom line.

That trend causes an increase in the number of investigations and complaints, Director Derickson said, and the board is asking for more funding to add a staff member in two years to help with those investigations.

"To help solve this problem, I think this board needs a little help from what we're currently staffed at," he said.

He also said he expected legislation to be introduced this session with support from funeral home providers for a fee on pre-need services that would help cover costs of unmet pre-need services.

**Rep. Kirk Schuring** (R-Canton) suggested that legislation be introduced soon so it could be incorporated into the budget document, to avoid the board having expenses budgeted without the revenue to pay for them.

Chair **Rep. Keith Faber** (R-Celina) also discussed moving the money the board collects in fines to the General Revenue Fund, rather than returning it to the board, to avoid the appearance of the board fining businesses to meet its budget.

"If we were to make that transfer, you're going to need some additional revenue," Rep. Faber said.

The subcommittee also reviewed the Ohio Commission on Hispanic and Latino Affairs.

**(Redbook)** Executive Director Lilleana Cavanaugh said the commission's increased budget needs stem mostly from insurance and operating costs.

Asked by Rep. Faber what the commission would do if it did not receive the extra \$50,000 asked for in the budget, Ms. Cavanaugh said it would have to move a full-time position, one of three, to part-time.

"What is important is to know that through our commission, we're able to provide these agencies with an understanding of the Latino community, the language, the culture, thus decreasing those gaps in communication and culture," she said.

The panel also heard testimony in support of the commission from others, including Claudia de Leon, president of the Hispanic Chamber of Columbus. Ms. de Leon said the commission serves a vital role in the community.

"The Commission on Latino Affairs is a major bridge into the Hispanic community as well as a valuable resource to the Hispanic community from creating more awareness of how our government works and the services available to help them achieve their educational or personal goals to alerting us of incoming or ongoing legislation that could have an impact to our increasing Hispanic population in Ohio," she said.

Another board reviewed by the panel was the Sanitarian Registration Board (Redbook), which Executive Secretary Stephanie Youst said registers people who are responsible for testing drinking water, inspecting restaurants and performing other public health tasks. The board proposed an increase in fees, which Ms. Youst said would help cover the increased costs of a new licensure system, rent, supplies and other items.

Ms. Youst said the board is necessary because it ensures public health departments and others have licensed, trained and qualified staff.

"The reason that you need sanitarian registration is sanitarians are responsible for protecting public health," she said.

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## Senate Activity for Wednesday, February 15, 2017

### INTRODUCED AND REFERRED

**SB 54** ■ **SUMMER FOOD PROGRAMS** (Brown, E., Lehner, P.) To require school districts to allow approved summer food service program sponsors to use school facilities to provide food service for summer intervention services under certain conditions. Am. 3313.813  
Government Oversight & Reform

**SB 55** ■ **NURSE STAFFING** (Skindell, M.) To establish minimum ratios of direct-care registered nurses to patients in hospitals, to specify rights of registered nurses working in hospitals, and to prohibit retaliatory actions by hospitals against registered nurses. Am. 3727.50, 3727.51, 3727.52, and 3727.53 and to enact sections 3727.80 to 3727.88  
Health, Human Services & Medicaid

**SB 56** ■ **STEP THERAPY** (Lehner, P., Tavares, C.) To adopt requirements related to step therapy protocols implemented by health plan issuers and the Department of Medicaid. Am. 5167.12 and to enact sections 3901.82, 3901.821, 3901.822, 3901.823, 5164.7512, 5164.7513, and 5164.7514  
Health, Human Services & Medicaid

**SR 37** ■ **CORPORATE PERSONHOOD** (Skindell, M.) To call on legislators at the state and federal level and other communities and jurisdictions to support an amendment to the United States Constitution that would abolish corporate personhood and the doctrine of money as speech.  
Transportation, Commerce & Workforce

### INTRODUCED

**SB 57** ■ **AWARENESS DAY** (Kunze, S.) To designate the seventeenth day of May as "Diffuse Intrinsic Pontine Glioma Awareness Day." Am. 5.291

**SCR 4** ■ **BALLOT ARGUMENTS** (Peterson, B.) To delegate to the President of the Senate and the Speaker of the House of Representatives authority to designate groups of members to prepare arguments for and against



amendments to the Ohio Constitution proposed by the General Assembly, a person or persons to prepare an argument for any law, section, or item submitted to the electors by referendum petition, and a person or persons to prepare an argument against any constitutional amendment proposed by initiative petition

33-0

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## **PASSED**

**SB 25**

**PERRY COUNTY COURT (Hottinger, J.)** To create the Perry County Municipal Court in New Lexington on January 1, 2018, to establish one full-time judgeship in that court, to provide for the nomination of the judge by petition only, to abolish the Perry County County Court on that date, to designate the Perry County Clerk of Courts as the clerk of the Perry County Municipal Court, and to provide for the election for the Perry County Municipal Court of one full-time judge in 2017 and to declare an emergency.

33-0; Emergency: 33-0

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## **REFERRED**

### **Education:**

**SB 39**

**SCHOOL OPERATIONS (Schiavoni, J.)** Regarding community school operator contracts, the operation of Internet- and computer-based community schools, and performance metrics for blended learning schools.

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### **Energy & Natural Resources:**

**SB 50**

**OIL GAS LAWS (Skindell, M.)** To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.

**SB 51**

**LAKE ERIE (Skindell, M., Eklund, J.)** To authorize the creation of a special improvement district to facilitate Lake Erie shoreline improvement.

**SB 53** ■

**LAKE ERIE DRILLING (Skindell, M.)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

## **Finance:**

**SB 45** ■

**UNCLAIMED FUNDS (Williams, S.)** Regarding payment to a registered finder of unclaimed funds.

## **Government Oversight & Reform:**

**SB 44** ■

**CAMPAIGN FINANCE (LaRose, F.)** To allow certain campaign committees and other entities to file campaign finance statements electronically and to require the Secretary of State to make the information in those electronic statements available online.

## **Judiciary:**

**SB 40** ■

**AGGRAVATED MURDER (Eklund, J., Williams, S.)** To provide that a person convicted of aggravated murder who shows that the person had a serious mental illness at the time of committing the offense cannot be sentenced to death for the offense and to provide a mechanism for resentencing to a life sentence a person previously sentenced to death who proves that the person had a serious mental illness at the time of committing the offense.

**SB 41** ■

**TESTIMONIAL PRIVILEGE (Eklund, J.)** To provide generally a testimonial privilege for communications between a qualified advocate rendering advocacy services and a victim of sexual violence, menacing by stalking, or domestic violence, to exempt the nondisclosure of that privileged communication from the offense of failure to report a crime, to require a qualified advocate to report knowledge or reasonable suspicion of child abuse or neglect of the victim except for privileged communications, and to specify circumstances in which the victim is considered to have waived the privilege.

**SB 42** ■ **DRUG OFFENSES (Eklund, J.)** To expressly provide that drug offense penalties that refer to a particular type of drug also apply to a compound, mixture, preparation, or substance containing a detectable amount of that drug and to declare an emergency.

### **Local Government, Public Safety & Veterans Affairs:**

**SB 43** ■ **BUILDING CODES (Bacon, K.)** To enable limited home rule townships to adopt building codes regardless of any similar codes adopted by the county in which the township resides.

**SB 48** ■ **HEARING IMPAIRMENTS (Williams, S.)** To create a special license plate for hearing-impaired individuals and to require the Registrar to include an identifying symbol on a driver's license, commercial driver's license, or state-issued identification card of a hearing-impaired individual, if requested.

**SB 52** ■ **MARRIAGE CEREMONIES (Skindell, M.)** To allow any person or entity that registers with the secretary of state to solemnize marriages.

### **Transportation, Commerce & Workforce:**

**SB 46** ■ **ROAD NAMING (Williams, S.)** To designate portions of United States Route 422 within the municipal corporations of Cleveland and Youngstown as the "Arnold R. Pinkney Memorial Way."

**SB 47** ■ **NONCOMPETE LANGUAGE (Williams, S.)** To prohibit the use of noncompete provisions in employment contracts in the broadcasting industry.

**SB 49** ■ **EMPLOYMENT APPLICATIONS (Williams, S.)** To prohibit private employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.

## COMMITTEE HEARINGS

### Ways & Means

**SB 35** **TAX CREDIT (Skindell, M.)** To remove the income restriction on the earned income tax credit and to make the credit refundable beginning in 2017.  
(CONTINUED; 1st Hearing-Sponsor)

**Sen. Michael Skindell** (D-Lakewood) said the bill is the same as his previous effort to make the Earned Income Tax Credit refundable and remove current credit income restrictions (SB21, 131<sup>st</sup> General Assembly).

Ohio's current EITC equals about 10% of the federal EITC, he said. For those with adjusted gross incomes exceeding \$20,000, the credit is capped at 50% of tax due. The legislation would remove that cap.

Sen. Skindell said reducing that cap and making the credit refundable will "go a long way in reducing Ohio's poverty rate." He added that 26 states have EITCs that are refundable.

"A state refundable EITC is targeted to help low to moderate income working individuals and families," he said. "A refundable state EITC would have a significant impact on the long term economic well-being of our low income wage earners and our local and state economy."

**Sen. Peggy Lehner** (R-Kettering) questioned how many Ohioans were able take advantage of the credit last tax year. She asked whether she is correct in observing that the bill would benefit those with lower incomes who would not have much of a tax liability in the first place.

"Absolutely, and that's why we want to make it nonrefundable and remove those restrictions,"

Sen. Skindell replied, adding that a lower tax burden frees up money for clothing or other essentials for those low-income families.

Responding to further questions, Sen. Skindell said the Legislative Services Commission analysis of his bill last year indicated the total cost of the proposal would be around \$180 million. In the eight legislative sessions he's been pushing for the change, he said that number has been fairly stable.

**SB 36** **AGRICULTURAL LAND (Hite, C.)** To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup and to stipulate that CAUV land used for a conservation practice or enrolled in a federal land retirement or conservation program for at least three years must be valued at the lowest of the values assigned on the basis of soil type.  
(CONTINUED (See separate story); 1st Hearing-Sponsor)

**SB 9** **SALES TAX HOLIDAY (Bacon, K.)** To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes. (CONTINUED; 1st Hearing-Sponsor)

**Sen. Kevin Bacon** (R-Minerva Park) said his bill is the same as one he introduced last year that would institute a one-year sales tax holiday during the first weekend in August. (SB264, 131<sup>st</sup> General Assembly)

Although the sponsor said he still envisions a bill enacting a permanent annual holiday, he said he opted again for the one-time approach after it helped garner legislative and administrative support last session.

Once again the bill would create a three-day sales tax exemption on clothing items up to \$75 and on school supplies costing \$20 or less per item.

"Many of you may recall the first two sales tax holidays which were passed during the 131<sup>st</sup> General Assembly," he told the committee. "These events were highly advertised in every part of the state and very popular with Ohio residents. My office received letters of support from students, businesses, and educators following the first two sales tax holidays."

He again touted a study from the University of Cincinnati that determined the 2015 holiday landed the state \$4.7 million in additional revenue. He said the university is once again compiling a study of the 2016 holiday that will be shared with the committee upon completion.

Chairman **Sen. John Eklund** (R-Chardon) said it would be "extraordinarily helpful" to receive that report by Feb. 21, although Sen. Bacon expressed doubt about that timeline. **Sen. Sean O'Brien** (D-Hubbard) requested the study include, if possible, a breakdown of the impact on counties bordering Pennsylvania, which has no sales tax on clothing items.

**Sen. Sandra Williams** (D-Cleveland) questioned why the Kasich administration has yet to endorse the sales tax holiday as an annual event.

Sen. Bacon replied that in his conversations with the administration, the governor's staff is committed to using the most conservative form of budgeting. The administration was supportive of both previous one-off holidays, he said, "and we are hoping they will be again."

**Subscribers Note:** For full testimony, see the [committee's website](#) under Feb. 15.

## **Government Oversight & Reform**

**SB 10** **PRIMARY ELECTIONS (LaRose, F.)** To expand the circumstances under which a board of elections or the secretary of state is not required to hold a primary election. (CONTINUED; 1st Hearing-Sponsor)

The bill's sponsor, **Sen. Frank LaRose** (R-Hudson), said it would eliminate the need for primary elections when only one candidate qualified for the ballot.

"I call this the superfluous primaries bill. This is that bill that is meant to address that rare situation where there is only one candidate on the ballot and we are forced to hold an election," he said.

The bill stems from a problem in which a special election is needed, costing taxpayers hundreds of thousands of dollars, for a race that has already been decided, he said.

"The fix to this is simple," he said. "We trigger the need for an election on how many candidates are certified for the ballot, not how many candidates file petitions for the ballot."

**Sen. Edna Brown** (D-Toledo) asked if it would apply if a candidate dropped out, leaving only one remaining.

"Essentially what this comes down to, if there's only one candidate left, then there's no need to hold an election," Sen. LaRose said.

**SB 18** **DAY DESIGNATION (Thomas, C.)** To designate September 12 as "Jesse Owens Day." (CONTINUED; 1st Hearing-Sponsor)

The bill would designate Sept. 12 as Jesse Owens Day, sponsor **Sen. Cecil Thomas** (D-Cincinnati) said. He was inspired after seeing the movie "Race" and learning that Jesse Owens was from Ohio.

Mr. Owens, who was born in Alabama, grew up in Cleveland and attended the Ohio State University, is best known for winning a record eight NCAA championships on the track in college and winning four gold medals at the 1936 Olympics in Berlin.

"Jesse Owens is remembered as an ambassador for American ideals, both at home and abroad," Sen. Thomas said. "While his incredible athleticism is impressive on its own accord, his legacy is all the more noteworthy because of the character he showed in the face of bigotry. Recognizing Jesse Owens on his birthday - September 12 - is a fitting tribute for one of Ohio's greatest native sons."

**SB 21** **ELECTION PROCEDURES (Uecker, J.)** To reduce the minimum number of precinct election officials in a precinct in which electronic pollbooks are used and to eliminate the requirement that a board of elections send a notice to a person's residence address when the board cancels the person's voter registration because it received a report of the person's death. **(CONTINUED (See separate story); 1st Hearing-Sponsor)**

**SB 28** **ABORTION (Uecker, J.)** Regarding final disposition of fetal remains from surgical abortions. **(CONTINUED (See separate story); 1st Hearing-Sponsor)**

#### **Education**

**SB 34** **ACADEMIC YEAR (Manning, G.)** To generally require public and chartered nonpublic schools to open for instruction after Labor Day. **(CONTINUED (See separate story); 1st Hearing-Sponsor)**

**SB 8** **SCHOOL TECHNOLOGY & SAFETY (Gardner, R., Terhar, L.)** To require the Ohio School Facilities Commission to establish a program assisting school districts in purchasing technology and making physical alterations to improve technology infrastructure and school safety and security. **(CONTINUED (See separate story); 1st Hearing-Sponsor)**

Without discussion, the committee confirmed the governor's appointments of Eric Poklar, Rebecca Vasquez Skillings, Charlotte McGuire and Martha Manchester to the State Board of Education.

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**Volume #86, Report #31 -- Wednesday, February 15, 2017**

**House Passes Bills Dealing With Cocaine, Taxes, Gambling; Speaker Talks Collective Bargaining**

Legislation to change how cocaine is accounted for in drug convictions passed the House unanimously Wednesday.

The House also advanced bills updating the state's tax code to align with federal changes and allowing Ohio casino employees to gamble at other casinos.

The cocaine bill (HB 4) passed unanimously after House members voted 95-1 to incorporate an emergency clause. That bill is designed to clarify the statute for how penalties for cocaine possession are assessed based on the amount of cocaine after an Ohio Supreme Court ruling interpreting the existing language, sponsor Rep. Robert Cupp (R-Lima) said. (See Gongwer Ohio Report, February 14, 2017)

The Supreme Court's decision in *State v. Gonzales* said the state must prove the actual weight of the cocaine included in compounds, excluding filler material, to use the amount for sentencing. Rep. Cupp said it would be costly and time-consuming for the state to invest in the laboratory equipment to prove that for these cases.

"The practical fact of the court's decision was to make every cocaine violation a fifth-degree felony unless the cocaine was pure," he said.

Rep. John Rogers (D-Mentor-on-the-Lake) said the bill, with the emergency clause, is needed now because there is currently no added penalty for trafficking in large amounts of cocaine compared to small amounts.

"As the law now stands, drug dealers and traffickers are incentivized to traffic in large quantities of cocaine," he said.

The House also voted unanimously to pass a bill (HB 11) to update the state's tax code with changes in federal law.

"As a CPA, I am well aware some of the tax laws can be a bit dull and difficult to understand, however this legislation is necessary so we can ensure Ohioans are able to fully benefit from the new federal laws this tax season," sponsor Rep. Gary Scherer (R-Circleville) said in a statement.

The other bill passed by the House (HB 32) would allow casino employees to gamble at other unaffiliated casinos in the state. Sponsor Rep. Bill Seitz (R-Cincinnati) said it simply gave casino employees the same right already given to racino employees.



"The only limitation by this bill is that you cannot be employed by or affiliated with the casino at which you are playing," Rep. Seitz said.

**Speaker's Comments:** Speaker Cliff Rosenberger (R-Clarksville) told reporters after session that while a number of his caucus members are supportive of recently introduced "right-to-work" legislation (HB 53), it's not a focus for leadership.

"We're always going to have members that want to introduce bills and do things. That's in their prerogative to do," he said. "We'll have conversations with the caucus, but I don't know that we have a game plan going forward."

The speaker said many in the legislature remember what happened with the last attempt at similar legislation (SB5, 129<sup>th</sup> General Assembly), which was repealed by voters. There might not be broad enough support for it, he said, though the state is facing pressure as more states implement similar policies.

"Ultimately for the state, the right-to-work pathway is one which is probably taken to the ballot," he said.

### **Critics Take Aim At Several Portions Of Transportation Budget**

Detractors of certain aspects of Gov. John Kasich's proposed two-year transportation budget on Wednesday spoke out against tax policy changes in the bill, urged more funding for public transportation and lobbied for increased fees for deputy registrars.

Testifying before the House Finance Committee, Matthew White, general counsel of IGS Energy, and Jason Phillips, policy director for Clean Fuels Ohio, both disagreed with a portion of the budget (HB 26) that would allow for the 28-cent-per-gallon Motor Fuel Tax to be levied on compressed natural gas. (Redbook)

Mr. White told the panel that the proposal would harm the fledgling industry while generating little revenue for the state.

"It would be unwise to now impose a tax on CNG in such an expedited manner without studying how the tax may harm the industry and without looking at the complexities of the tax code to ensure any tax is applied fairly," he said in testimony.

Rep. Alicia Reece (D-Cincinnati) questioned Mr. White on if he would be open to a phased-in approach.

In response, Mr. White said a phased-in tax may be appropriate when the CNG market share grows from its current 1% to 3% or more, but not in the current budget cycle.

"We would support a broader study of CNG, including how to incentivize it and how to make it work best for the state of Ohio," he said.

Rep. Adam Miller (D-Columbus) asked how much the federal alternative fuel tax credit weighs on his opposition to the MFT being imposed on CNG. Mr. White said given the political changes in the nation's capital, he is not hopeful that the federal tax credit will be renewed.

Mr. Phillips told the panel that financial incentives should be paired with the tax if it is imposed.

"Pennsylvania and other states that currently tax CNG pair this tax with a very healthy financial incentive to offset a new tax that would hurt the ROI," he said in testimony. "Pennsylvania has had an incentive program for several years, allocating over \$25 million to alternative fueled vehicle projects. It has been so successful that they have renewed the program."

Jeffrey Erb, president of the Ohio Association of Convenience Stores, raised concerns in his testimony over a proposal to change the point at which the MFT is collected. The proposed change would allow for the MFT to be collected at the refinery rack starting in 2018. Currently, the tax is paid at the wholesale level, giving business owners about a month after purchasing the motor fuel to sell it and collect taxes from customers before paying taxes to the state.

The change in the point of collection for the tax could generate as much as \$92 million per year in revenue, according to the Legislative Service Commission.

Mr. Erb said the change would negatively impact small businesses.

"I asked myself who would benefit by this change. The only answer I could come up with that made sense was big oil. They will be the ones to hold the excise tax if this change is made. There certainly is no crisis in collecting the excise tax now. The Ohio Business Gateway is very efficient for reporting and collecting the tax," he said.

"I also don't see this as being particularly helpful to the government. I hope the government does not see itself as more important than the honest hard working businessmen that produce goods and services that actually allow the government to function."

Rep. Rob McColley (R-Napoleon), the bill's sponsor, said in a recent interview that amendments are likely to address both of those issues. He also said a potential change allowing deputy registrar fees to increase could be in the works. (See Gongwer Ohio Report, February 13, 2017)

Aldo Filippelli, president of the Ohio Deputy Registrars' Association, said in his testimony that a fee change is warranted given the current \$3.50 level was set in 2004.

He requested the fee be boosted by \$2.50 with additional increases of 50 cents in 2020 and 2021.

Rep. Robert Sprague (R-Findlay) questioned if it would be more appropriate to phase in such an increase over time.

Mr. Filippelli said that may have worked six or seven years ago, but at this point he is losing employees because of the salaries he is able to pay.

Joe Bowsher, a deputy registrar for the past two decades, said that since the last fee increase, operating costs have increased significantly.

"As an employer, I find that the wages that I pay are below other employers in my area including Wal-Mart, White Castle and most non-skilled positions. As a small business owner, it frustrates me that my employees are paid \$10 per hour with little or no benefits, and the state employees in the same job are earning \$6 more each hour plus benefits," he said in testimony. "For me to raise wages for my staff to the same amount as state employees would cost me over \$120,000 per year, not including taxes and benefits."

Rep. Dan Ramos (D-Lorain) questioned Mr. Bowsher on the number of his employees that receive public assistance. "The state of Ohio is not saving any money if your employees are on public benefits," he said.

Mr. Bowsher said that at least one of his 13 employees receives public assistance.

Several proponents of public transportation also urged lawmakers to make additional investments in the area.

Jason Warner, manager of government affairs at the Greater Ohio Policy Center, applauded a proposal to use federal money to increase funding for public transportation by \$10 million for a total of \$33 million. However, he said the state could do more and suggested that an additional \$17 million in federal funds be flexed for public transportation.

"Setting aside a total of \$50 million in FHWA funding to public transit will result in 7.5 fewer miles of highway expansion, or 24 miles of highway repaired per year. For perspective, ODOT paved 5,564 lane miles in 2015," he said in testimony.

"Allocating \$50 million per year of FHWA fund to transit-related capital investments will have negligible impact on Ohio's crucial highway maintenance and construction programs, while significantly improving safety, performance, and use of Ohio's public transportation systems."

Asked about the impact that public transportation can have on the tourism industry in a city, Mr. Warner used the example of Cleveland, which hosted the 2016 Republican National Convention, and Columbus, which lost out to Philadelphia for the Democratic National Convention. Public transportation played a major role in that, he said.

"There was no other method for them to get down to where the main convention site was going to be," he said of Columbus and the lack of transportation options from John Glenn International Airport.

Nathan Alley, transportation policy coordinator for the Ohio Chapter of the Sierra Club, echoed many of those sentiments in his testimony. He told the panel that for every \$1 invested in public transit, it generates \$6 in economic activity.

"We appreciate the allocation of additional flex funding to transit in this proposed budget, but even with that allocation, it is our understanding that transit would still be left with a \$20 million deficit because of anticipated changes to our state sales tax structure," he said.

"Please do all that you can in this budget cycle to ensure that we achieve economic development, increase employment opportunities, reduce urban sprawl and congestion, and create more livable communities for all Ohioans."

Akshai Singh of Ohio for Transportation Equity told the panel that the state needs to invest \$192.4 million in capital and \$96.7 million in operating funds just to meet existing demand for public transportation services.

"Ohio needs a 21st century transportation system, made up not only of roads and highways, but also a complete network of affordable, accessible, and sustainable transportation options, including public transit, passenger and freight rail, electric buses and vehicles, and walk-able, bike-able streets. We need at least \$300 million a year - to address the cost of backlogged capital needs, and start to build a system of transit alternatives for the future," he said in testimony.

Katie Frederick, executive director of the American Council of the Blind of Ohio, asked lawmakers to increase funding for public transportation from its current level of 1% to 10%.

The Cincinnati chamber applauded the \$10 million increase in funding for public transportation, saying it will allow the Southwest Ohio Regional Transit Authority to replace aging and outdated vehicles.

"At the beginning of this year, SORTA had 63 buses past their 12- year useful life," the group wrote. "Every year beyond this threshold means increased operating and maintenance costs. A 15- year- old bus costs 133% more to maintain than a 10- year- old bus. As of January, Metro had 40 buses that are 15 years old or older, resulting in more than \$500,000 in additional annual operating expense. This additional \$10M can help unlock federal resources to more rapidly replace the outdated fleet that currently transports people throughout our region."

The group also said that it would be supportive of an amendment to increase funding to Transportation Improvement District across the state. It also noted its support for increased investment in transportation technology.

"As you review programs to pilot innovations in transportation, we look forward to working with you to identify opportunities in southwest Ohio to deploy new technology and bring our state to the fore of innovation in transportation," it wrote.

Also providing testimony was Shane Lieurance, a deputy registrar, and the Cincinnati USA Regional Chamber, the latter in written form.

### **Senate Committee Debates Bill On Poll Workers, Death Notifications By Election Boards**

A Senate panel Wednesday questioned a bill that would reduce the minimum number of election officials needed at certain precincts and change requirements for boards of elections to notify households when deceased individuals are removed from voter rolls.

Members of the Senate Government Oversight and Reform Committee said they wanted to ensure polling places have proper supervision and that people know if they are mistakenly removed from voter rolls.

The bill (SB 21) would grant permissive authority for county boards of elections to reduce the minimum number of election officials from four to two in multi-precinct locations that use electronic poll books, sponsor Sen. Joe Uecker (R-Loveland) said.

"Electronic poll books are revolutionizing voting in precincts across Ohio," he said. "These digital tablets are currently utilized by fifty-five counties. Their use will continue to increase as more counties take advantage of enacted state funds to assist in the cost. Electronic poll books eliminate reliance on traditional paper poll books creating a better and more efficient experience for voters and poll workers."

That authority is permissive, meaning boards of elections would have the right to do so but would not be required, he said.

Sen. Edna Brown (D-Toledo) said she was worried the county board would be pressured to cut costs even if they didn't think it was the best course of action.

"My concern is that county commissioners might pressure boards of elections to make these reductions and then perhaps cause other problems," she said.

Sen. Uecker said the bill would help county boards in areas where one party is dominant and they have trouble finding enough election officials of the other party.

"I think it makes a more proper as well as a more efficient election process," he said.

Sen. Brown suggested the bill require it to be a bipartisan decision by the board of elections to reduce the number of election officials required, and the sponsor said he'd be open to exploring possible amendments.

Sen. Frank LaRose (R-Hudson) said he was worried that having fewer election officials could mean there would be times when only officials from one party were working.

"When there's only two, my worry would be that during the normal ebb and flow of the day as people take a lunch break, a bathroom break, that you have bipartisan oversight," he said.

The bill would also remove a requirement that a board of election send notice to a person's address when the board cancels a voter registration because it received a report of his or her death. Families have complained to boards of elections, Sen. Uecker said, about the emotional toll of receiving such notices.

Sen. LaRose said he was concerned that removing the requirement could lead to voters accidentally being removed from the rolls and not finding out until they go to vote. He said that recently happened to a Legislative Service Commission staffer.

"The idea was that just like any other change in voting status, there would be a notification sent to the household," he said.

Sen. Michael Skindell (D-Lakewood) said stopping the notifications could lead to some people being unable to vote. That outweighs the concerns of families who are upset by receiving the notification, he said.

"Causing cancellation is the greater harm," he said.

Sen. Brown said she would like to hear more from county boards of elections about how they receive death notifications.

Sen. Uecker said he would be open to whatever the committee decides to do with the provision, but asked that members keep an open mind and hear testimony from local election officials.

### **Dating Protection Order Bill Eyed For Quick Committee Approval**

A priority House bill to permit domestic partners to obtain civil protection orders appears poised for quick committee passage, according to the committee's chairman.

The measure (HB 1) would close a loophole that sponsor Rep. Emilia Sykes (D-Akron) said "leaves thousands of Ohioans without recourse in the event of dating violence."

After a first hearing Wednesday featuring emotional testimony from domestic violence survivors and advocates, House Civil Justice Committee Chairman Rep. Jim Butler (R-Oakwood) said the bill should move quickly.

"We'll probably have it for a possible vote next week," he said.

That's good news for Rep. Sykes and other advocates who were disheartened when the bill which had been on the verge of passing fizzled out during the lame duck session when the Senate declined to take a concurrence vote.

In that case, the language from Rep. Sykes and former Rep. Christie Kuhns was amended into a separate bill on the House floor during the final night of session. The Senate then opted not to move the bill, saying the amendment was too "complicated" to pass at the zero hour. (See Gongwer Ohio Report, December 9, 2016)

Now the bill is back with the support of Republican House leadership and with Rep. Nathan Manning (R-N. Ridgeville) stepping in as lead co-sponsor in place of former Rep. Kuhns.

In her testimony, Rep. Sykes said abuse victims who don't meet the statutory definition of domestic violence have too little recourse to protect themselves and their children.

"House Bill 1 is necessary because Ohio currently defines domestic violence as violent acts occurring between spouses, family members, those cohabiting, living as spouses, or individuals who share a child in common," Rep. Sykes said. "People in ongoing, substantial, intimate, and dating relationships are not included."

Rep. Manning emphasized the bill would not create an additional class of protection order. Rather, it would fold domestic partners into those eligible to apply for existing orders.

"Due to the risk of ongoing violence in these situations, it is important that all victims of abuse have resources to protect themselves," Rep. Manning said. "Many people argue that a piece of paper is not going to protect someone from harm, but studies have shown that violence stops completely or is significantly reduced when a protection order is in place."

Others testifying in support included representatives from the Summit County Victim Assistance Program, Northeast Ohio Medical University and its police department, and Cleveland Clinic Akron General along with a Summit County Juvenile Court judge.

But perhaps the most powerful testimony came from a pair of domestic violence survivors who described in detail their experience.

Victoria Morgan described having her own protection order request rejected only to see her attacker later force his way into her home and kick her twice down a staircase.

"A lot of times, people only think about the physical signs of abuse," she said. "But the emotional is so much worse. Going through counseling, putting my children through counseling. ... I urge you to pass this bill. It's needed."

Liv Out Loud Founder and CEO Diona Clark recounted her experience in which she ended a relationship, and then her ex-boyfriend arrived at her new home with a gun, trapping her inside.

"After about an hour, he finally let up from the door and I went to reach for the doorknob and he shot me twice at point blank range, once in the chest and once in the wrist," she said.

"My life was spared, but another life could be lost due to lack of proper protection and services to turn to," she continued. "HB 1 can provide adequate help for individuals in need. I am determined to fight for individuals who are victimized; therefore I am determined to fight for HB 1."

### **Opponents Of 'Pastor Protection Act' Warn Of LGBT Discrimination, But Speaker Expresses Support**

Speaker Cliff Rosenberger indicated support Wednesday for a controversial bill on same-sex marriage, which a couple hours later was the target of intense criticism from several clergy members and other opponents.

Similar legislation (HB286, 131st General Assembly) was introduced in the last legislative session but never cleared committee.

However, Speaker Rosenberger (R-Clarksville) said after session the bill (HB 36) is a priority for many House Republicans, and that it would reaffirm protections already enshrined in the Ohio Constitution.

"We have a lot of people in the caucus interested to see something happen with this," he told reporters.

The speaker said his caucus is going to talk more about the bill next week.

"The state constitution already provides for a lot of protections and I think what we'll be doing is passing a bill that just reaffirms that," he said.

Prior to Wednesday's committee testimony, which focused on opponents, Rep. Nino Vitale (R-Urbana) amended the bill with language he said would clarify that it does not invalidate other rights of clergy members.

Afterward, a Democratic lawmaker, nearly a dozen pastors and others denounced the controversial measure, which would codify that no licensed minister or religious organization is required to perform or host a marriage ceremony that does not conform to their religious beliefs.



Delivering testimony to the panel, Rep. Nickie Antonio said the so-called Pastor Protection Act is unnecessary, offensive to members of Ohio's LGBT community and has the potential to damage the state economically.

The Lakewood Democrat said in testimony that both federal and state law provide religious freedom protections that prevent ministers and religious institutions from being forced to take part in wedding ceremonies with which they disagree. She likened the legislation to a controversial North Carolina law that prevented local governments from implementing anti-discrimination laws and forced transgendered individuals to use the restroom of their birth gender.

"If we codify discrimination in Ohio through this bill, we could open the floodgates to confusion and the public's overall disgust with discriminatory legislation," she said. "We need look no further than North Carolina to know that bills that would codify discrimination, don't sell. In North Carolina, PayPal cancelled 400 jobs, Bruce Springsteen canceled his concert, the NBA pulled the All-Star Game, and the NCAA moved its championship games out of state, costing millions, if not billions in lost revenue and payroll."

Rep. Antonio instead suggested that lawmakers move legislation that would ban LGBT discrimination in employment and housing.

"No matter how this debate goes forward I believe it is important for us to remember that we may disagree and discern another person or group to be wrong-but when that discernment causes us to value another person or group less, then we've crossed the line into judgment, condemnation, and exclusion," she said. "I am hopeful we will not cross that line. I respect the members of the clergy who have concerns my hope is that we will experience mutual respect for the dignity and worth of all couples including same sex couples."

Rep. Janine Boyd (D-Cleveland Hts.) asked Rep. Antonio, the first openly gay member of the Ohio legislature, if she and her married partner considered having their wedding ceremony in a place of worship that is not open to non-traditional marriage.

"We went to the place that we knew would embrace us, that would celebrate us," Rep. Antonio replied.

Rep. Michael Sheehy (D-Oregon) asked if she is aware of any lawsuits filed due to a member of the clergy's failure to solemnize a marriage. Rep. Antonio said she is not aware of any such litigation. Even so, she said the bill would not prevent such a lawsuit from being filed.

"With or without this law, anyone in Ohio has the ability to file a lawsuit if they feel they have been wronged," she said.

Rev. Virginia Lohmann Bauman, senior pastor of St. John's United Church of Christ in Columbus, called the legislation "a thinly veiled attempt to legitimize bigotry" and drew a

comparison with the U.S. Supreme Court case of *Loving v. Virginia*, in which the high court struck down laws banning interracial marriage.

"And yet for decades after that case was decided, and in fact, even today, racist pastors in their own churches refuse to marry, with impunity, inter-racial couples they deem unfit to be married in their church," she said in her testimony. "And that right to officiate, or not, in the pastor's own house of worship, is constitutionally protected by our federal and state constitutions. Interestingly, at no time after the *Loving* decision did the Ohio legislature find it necessary to 'protect' pastors from being 'forced' to marry inter-racial couples outside of that pastor's faith beliefs."

Rep. Niraj Antani (R-Miamisburg) took issue with the characterization that the legislation is an attempt to "legitimize bigotry" and questioned Ms. Lohmann Bauman on how she could be so certain that there is no need for the measure.

"There is no precedent for this. How can you say this is redundant?" he asked.

Ms. Lohmann Bauman responded by saying that it is not the job of the legislature to legislate "hypothetical fears" and said that U.S. Supreme Court Justice Anthony Kennedy in the *Obgerfell* decision legalizing same-sex marriage made clear that it would not interfere with religious protections provided by the First Amendment.

Rep. Ron Hood (R-Ashville) questioned whether Ms. Lohmann Bauman was characterizing those members of the clergy who support the measure as bigots. (See *Gongwer Ohio Report*, February 8, 2017)

"I do believe they are asking the legislature to do something inappropriate," she said, adding that the question would be best answered by each of the members of the clergy supporting the legislation.

Rep. Stephanie Howse (D-Cleveland) asked Ms. Lohmann Bauman if she is aware of any lawsuits filed against a member of the clergy that has refused to conduct a marriage ceremony for any reason.

"There are none that I'm aware of," she said.

Ms. Lohmann Bauman was among 11 members of the clergy that submitted testimony in opposition to the bill.

Rev. Joseph M. Cherry of the Unitarian Universalist Society of Cleveland raised the specter that the legislation could pave the way to allow civil servants to discriminate against members of the LGBT community.

"Civil servants must fulfill the law or face the consequences," he said in his testimony. "They are not subject to exception based upon their faith, religion or tradition. If they do not wish to perform all of the duties that their civil position requires, they are free to seek other employment. No one is conscripted into civil service."

Rev. J. Bennett Guess of the United Church of Christ, who said he refused to sign marriage licenses for the 11-year period in which the ban against same-sex marriage was enshrined in the state constitution, called the bill "a solution in search of a non-existent problem."

"Bogus is the only word I have for it," he said in prepared testimony. "While purportedly designed to protect clergy and places of worship from performing or hosting marriages against their wishes, it is unnecessary and a complete waste of taxpayers' time and money."

Opposition testimony, however, was not confined to members of the cloth and Rep. Antonio. Alana Jochum of Equality Ohio told the panel that the legislation gives wide latitude to undefined "religious societies."

"Religious entities play many roles in our state. Catholic Charities and Salvation Army, for example, provide a host of social services, crisis intervention, temporary housing, after school programs, and even food assistance. Many receive state and federal funding to do so, and are obligated to serve everybody equally in these programs," she said in prepared testimony. "Religious entities, therefore, are not always simply 'houses of worship;' they also include entities that engage in commerce -- by operating conference centers, reception halls, engaging in equipment rental, and much more."

Lisa Wurm, policy manager for the ACLU of Ohio, said her organization would defend the freedom of religion if clergy members were required to conduct marriages that violate their religious tenets.

"At the same time, we will not allow the guise of religious freedom to harm others," she said in prepared testimony. "This is what it means when religious liberty turns from acting as a shield to a sword. We've rejected the sword approach during the civil rights era, when religion was used as a reason to refuse integration in businesses and in our public areas. We need to continue to reject it now."

### **Senate Resumes Debate Over Disposal Of Fetal Remains**

Legislation dealing with the disposition of fetal remains from abortions had its first hearing in a Senate committee Wednesday, with some members voicing concerns that it would face legal challenges.

The bill (SB 28) is similar to one introduced last session (SB254, 131st General Assembly) as part of a flurry of legislation that followed an investigation by Attorney General Mike DeWine into the disposal of remains.

The measure's sponsor, Sen. Joe Uecker (R-Loveland), told the Senate Government Oversight and Reform Committee the bill is designed to ensure the proper disposal of remains.

"Last year it was brought to my attention that the Ohio Revised Code does not contain procedures regarding the disposal of aborted infant remains," he said. "In fact, most states lack such policies."

The bill declares that an abortion facility can only dispose of aborted remains through cremation or interment and grants the mother the right to determine the final disposition of remains, Sen. Uecker said. It would also require the Department of Health to maintain records of the woman's decision and the final disposition.

Sen. Kenny Yuko (D-Richmond Hts.), the ranking Democrat on the panel, said similar legislation in Indiana and Texas has been challenged and overturned in courts, and he was worried it was setting the state up for expensive legal issues.

He also said there didn't appear to be any real reason for the bill, as investigations have not turned up a pattern of problems with the disposal of remains.

"I know as legislators, we get contacted by people asking us to look at possible legislation and here's the reason why," he said. "I just can't think of the reason why in this case."

Sen. Uecker said the state should take steps to ensure fetal remains are respected.

"I believe that the right to life is the very first right we have, possibly the most important right we have," he said. "I believe that the way society shows this is crucial."

He also said he believed there were differences between his bill and the legislation in Texas and Indiana, and that it would be more likely to withstand judicial scrutiny.

Sen. Frank LaRose (R-Hudson) asked if the bill would apply to all fetal remains or just those from surgical abortions. The sponsor said it would only apply to the remains from surgical abortions.

Sen. Michael Skindell (D-Lakewood) asked if it was appropriate for the state to single out one kind of fetal remains.

"What state interest is being served by the unequal treatment of just surgical fetuses versus any other fetal death?" he asked.

Chairman Sen. Bill Coley (R-Liberty Twp.) said he and the committee will take a serious look at vetting all of the legal implications of the bill with the hopes of avoiding burdening the state with lawsuits.

### **Senate Advances Measure Creating Perry County Municipal Court**

Once again, the Senate unanimously passed legislation to establish a county municipal court in Perry County.

The latest 33-0 vote, during a session Wednesday, marked the third time the chamber has approved the bill. In the most recent instance, the bill cleared the Senate, only to be held up in a House committee during the 2016 lame duck session. (SB 299, 131<sup>st</sup> General Assembly)

This will be the third time this body has voted on this and it's my hope the House can act expeditiously on it and we can secure timely order of justice for the citizens of Perry County," sponsor Sen. Jay Hottinger (R-Newark) told colleagues on the Senate floor.

In addition to creating the court, the bill (SB 25) authorizes one full-time judgeship and provides for the nomination of that judge by petition. Upon its effect, the bill would abolish the existing Perry County Court and designate the county's clerk of courts as the clerk of the newly formed court.

Supporters - including the Ohio Supreme Court - say the court is needed after New Lexington eliminated its mayor's court in 2013, a cost-saving move that increased the caseload of other county courts from 1,800 cases a year to between 5,000-6,000 cases a year.

The bill contains an emergency clause, which was accepted by a 33-0 vote. That provision was necessitated, Sen. Hottinger said, by a committee amendment requested by the Ohio Supreme Court.

Added earlier this week, the amendment allows members of the Criminal Justice Recodification Committee to continue serving after they're no longer officeholders.

The Senate also unanimously passed a resolution (SCR 4) that permits the Senate President and House Speaker to appoint individuals to write arguments for and against proposed constitutional amendments.

Similar provisions have been passed unanimously each session since 1974, said sponsor Sen. Bob Peterson (R-Sabina).

**Obhof Gaggle:** Speaking to reporters after session, Senate President Larry Obhof (R-Medina) said he anticipates the chamber will act quickly on approving the governor's request for a joint session April 4 in Sandusky for the State of the State address. (See Gongwer Ohio Report, February 13, 2017)

Formal resolutions to convene the joint session had not been introduced by lawmakers in either chamber as of Wednesday afternoon.

"I think it's a great opportunity to showcase some of our natural resources, particularly the lake," he said. "I've spoken with (Sen. Randy) Gardner several times about possible activities up there and I think this will give us a chance to focus on some of the water quality efforts we've done over the last few years and maybe some that are coming up and to highlight Ohio's tremendous tourism industry."

He said the Senate could hold two or three committee meetings on site in Sandusky, although no firm plans have been made.

Asked about the recent introduction of a House right-to-work bill (HB 53), Sen. Obhof said the issue isn't a priority for Senate leadership.

"As with any piece of legislation, we'll give thoughtful consideration to anything that comes to our chamber," he said. "I would say you'd have to speak to the individual caucus members but we have done significant reforms in recent years.

"I'm not aware of anybody in the Senate that plans to introduce a bill about that subject but there are 33 members and I haven't called the other 32 to see were everybody is on what bills everyone's introducing. I don't micromanage like that," he continued.

### **Bill To Start School After Labor Day Will Get Thorough Review, Lehner Says**

It is unlikely that watchers of a bill that would move the first day of school to after Labor Day will know soon whether it has the Senate Education Committee's support.

Chairwoman Sen. Peggy Lehner (R-Kettering) said she's planning for long discussions on the bill (SB 34) as well as another to create a funding program for school technology infrastructure upgrades (SB 8).

"I think both of the ones that were in (committee) today are going to require a fair amount of hearings," she said.

The panel will also extensively review anticipated legislation on end-of-course exams and student suspensions in addition to a recently referred bill (SB 39) addressing questions about e-school attendance tracking, she said.

The school start date measure, sponsored by Sen. Gayle Manning (R-N. Ridgeville), has generated considerable buzz among school districts and parents since it was first unveiled late in the last General Assembly.

Waiting to open schools until after Labor Day would alleviate issues caused by a lack of air conditioning or functioning windows in schools when it is hot, as well as give families more time to vacation, Sen. Manning said.

"This additional vacation time for families also helps to promote economic activity," she said. "This can create and maintain jobs, providing additional local tax revenues that support our schools and local public safety resources."

Sen. Manning stressed that the bill shouldn't interfere with local control because it has an opt-out provision allowing school boards to continue setting the start dates of their choosing. Boards would be required to hold a public hearing before voting to opt out.

The change from calculating the school year in days to hours would also make it possible for districts to maintain their current end dates while pushing back the start date, she added.

While tourism industry leaders are expected to once again testify in support of the measure that they say will benefit the state's economy, it's likely many school districts won't be in favor.

Sen. Lehner said after the meeting that she's "open to" starting school in September because other states already require it without issue. However, she acknowledged there could be logistical problems and that public hearings on the issue have the potential to cause rifts between schools and parents.

"At what point does it become an opt out versus a, 'Hell no we won't go,'" she questioned.

Regardless of concerns and the inability of the proposal to pass through previous legislatures, the chairwoman at the end of Wednesday's discussion promised Sen. Manning that the bill will continue to be seriously considered.

The committee also heard sponsor testimony on a bill to allow schools that are low on the School Facilities Commission's priority funding list to receive dollars now for technology and safety upgrades. A companion measure (HB 37) started its journey through the House Education and Career Readiness Committee on Tuesday. (See [Gongwer Ohio Report, February 14, 2017](#))

Joint sponsor Sen. Randy Gardner (R-Bowling Green) said he'll be pushing to move the bill through the upper chamber before spring break.

"This was a recommendation in Senate Bill 3 (in the 130<sup>th</sup> General Assembly), but this amps this issue up another notch to do something that we believe can be very meaningful for schools and school children around the state," he said of the bill that would require the School Facilities Commission to create a technology infrastructure funding program as opposed to current law that permits it.

Sen. Gardner told committee members that the two-page bill would give OSFC the ability to structure the program in the way it deems best after receiving input from stakeholders.

Despite his optimism that the bill will be reported out of committee in the next few weeks, Sen. Lehner said it will likely require multiple hearings and stakeholder meetings to continue "ironing out some of the questions."

She suggested that the sponsors consider whether charter schools would be eligible for the funding and Sen. Vernon Sykes (D-Akron) raised questions about if and how district priority would be determined.

## **Victim's Rights Group Announces Campaign Kickoff**

Law enforcement officials and advocates on Wednesday announced the official kickoff of a statewide campaign to enshrine new requirements for the treatment of crime victims into the Ohio Constitution.

Supporters of the so-called Marsy's Law, named after a murder victim who died in 1983 and patterned after similar laws in other states, appeared at a Statehouse news conference and urged support for the changes, which if the coalition is successful would appear on the Nov. 7 ballot.

The Marsy's Law for Ohio amendment would mandate that crime victims: Receive notification of all legal proceedings; are provided the opportunity to be heard during the various steps of the process, such as parole hearings; are allowed to give input on plea deals; and are provided restitution resulting from the financial impact of the crime.

"By placing guarantees into the Ohio Constitution that a victim's rights will be protected, Marsy's Law for Ohio will be another important tool for prosecutors in the battle to help crime victims," longtime Franklin County Prosecutor Ron O'Brien said in a statement.

While the state's constitution already includes some protections for crime victims, supporters of the amendment say they don't go far enough.

"The rights of crime victims are too important to be allowed to fall through the cracks in the criminal justice system," Franklin County Sheriff Dallas Baldwin said. "I have long believed that the rights of crime victims should be respected just as much as the rights of the accused. Marsy's Law for Ohio is a much-needed change to Ohio's constitution."

Also appearing at Wednesday's event were representatives of crime victim advocacy groups and survivors of violent crimes.

"My rights as a victim in the domestic violence case against my husband were routinely violated and no one in the system seemed to care," crime victim Danielle Morlan said. "Marsy's Law for Ohio will change that and give crime victims the ability to protect and enforce their rights."

The campaign committee was cleared to begin collecting signatures last week when the Ohio Ballot Board agreed the proposal constituted a single issue. (See Gongwer Ohio Report, February 8, 2017)

Supporters have until July 5 to gather 305,591 valid signatures and meet other requirements to qualify for the fall ballot.

## **Lawmaker: CAUV Formula A 'Major Butt-Kicker' For Farmers**



Sen. Cliff Hite (R-Findlay) on Wednesday renewed his effort to overhaul the Current Agricultural Use Value tax formula in testimony before the Senate Ways & Means Committee.

The proposal he outlined (SB 36<sup>1</sup>) is identical to his prior bill on the subject (SB246, 131<sup>st</sup> General Assembly), he said. But he's hoping this year's bill will fare better than the last, which received six hearings in the Senate but failed to advance beyond committee.

"I understand the angst. I'm sure the Department of Taxation is going to pull their hair out," Sen. Hite said. "We've been thinking about this and talking about this for a long time. It's time to do something. It's time to give relief to these farmers."

Farmer groups for their part have already vowed to "carry the CAUV fairness fight into 2017." They say the formula that has worked fine for decades has become skewed and is driving up their tax burdens, threatening to force them out of the profession. (See Gongwer Ohio Report, December 20, 2016)

Opponents, including statewide school groups, have previously opposed the change out of concerns it will negatively impact school funding.

Predicting that those concerns will return before the committee in testimony this session, Sen. Hite urged lawmakers to put themselves in the position of farmers.

"If any of you were doing your taxes this time of year and you discovered your taxes were going to go up 300% you would freak out, especially if you're on a fixed income, especially if you're a brand new, let's say, farmer trying to get started," he said."

The bill would prohibit the use of certain nonagricultural factors in the valuation of farmland, which the sponsor said would improve the accuracy of the formula.

"Including these assumptions has no bearing upon the land's capability to produce agricultural income, which is the sole purpose of the CAUV formula," he said. "These factors arbitrarily inflate the value of farmland based on market considerations and do not in any way account for how much income is achieved."

The bill would also remove disincentives to engage in conservation practices, which he said undermines the formula's original intent to preserve land.

"If I don't have an incentive to keep my woodlands, I'm going to plow them down and make more money," Sen. Hite said. Although that is currently happening, he said, it's not yet occurring on a large scale.

He acknowledged that the taxation percentage for some farmers is currently going down, but asked lawmakers to keep that in perspective.

"To me going from (a) 350% (increase) to 310% is going down but, in layman Coach Hite language, it's a major butt-kicker anyway," he said. "It's not even apples and oranges. It's like apples and squirrels."

In response to questions, Sen. Hite committed to providing specific numbers on several aspects of the issue to senators moving forward. Among the unanswered questions was how the CAUV applies to urban farmers.

Sen. Hite did express support for an idea from Sen. Louis Terhar (R-Cincinnati) to implement a "collar" on the formula so that the taxes owed in any one year could not rise above or drop below specific levels.

"But there's a caveat," Sen. Hite replied. "The formula from the '70s has the capacity to also go down and so if you change that formula the chances of going way down would be eliminated with the (collar). I don't know what is better."

Sen. Peggy Lehner (R-Kettering) requested more detail on woodland preservation regarding the CAUV. Sen. Hite replied that the woodland in question is typically small and serves as a wind or snow buffer. Under the current formula, however, farmers stand to gain money from clearing that land to free up new farmland, he said.

Sen. Bob Hackett (R-London) agreed that something must be done. He criticized a time lag present in the formula in which farms going through tough times are still paying taxes for healthy years from 2012 and 2013. Meanwhile, he said, the industry is struggling with historically low interest rates and simultaneously high crop prices.

"We just have to update the rules and make them fit the times," Sen. Hackett said.

Sen. Bob Peterson (R-Sabina) agreed the historically low capitalization rates have "skewed the formula" and forced land values to be higher than they should be.

Predicting a robust discussion on the issue as the bill moves forward, Sen. Hite requested committee members keep in mind the importance agriculture plays in Ohio's economy. Potential farmers are being deterred from entering the profession, he said.

"We can't allow that to happen when it's our number one industry in the state of Ohio," he said. "This is a change to make sure we preserve that."

### **Insurers, Regulators Eyeing DC For Health Policy Changes**

State insurance regulators and the health insurance industry are closely monitoring the federal debate over the future of the Affordable Care Act to determine the impact that changes could have on Ohio consumers and the marketplace, stakeholders told a House panel on Wednesday.

Jillian Froment, deputy director of the Ohio Department of Insurance, and Miranda Motter, president and CEO of the Ohio Association of Health Plans, both said changes could have a far-reaching impact on the Ohio market.

Ms. Froment told the House Insurance Committee that the full impact of any federal changes won't be known until a final product is in place.

She said, however, that insurers will be filing their 2018 rates and policies within the next two months. "We are incredibly concerned about what this looks like for Ohio," she said.

Ms. Froment noted that those filings will be based on current law. If there are changes, ODI will have to be flexible to accommodate for adjustments.

"At this point, they're looking for clarity," she said of insurers. "And that's what the department's looking for."

Ms. Motter said federal changes could either bring stability or volatility to insurance markets.

The federal law, she said, did little to address health care costs, and said efforts should be made to identify key cost drivers - including medical service rates and prescription costs. Further, she said OAHF wants to increase transparency so Ohioans have more information about the cost of the medical services they are obtaining.

Other key cost-related issues, she said, are state and federal mandates, taxes and fees.

**ODI:** In an introductory presentation, Ms. Froment told the panel the agency regulates insurers and agents across Ohio, and is pleased that Ohio is home to a robust insurance industry. The agency's goal is to assure consumer protection while promoting a stable and competitive environment.

She said Ohio is the sixth-largest state by premium volume, and represents the world's 17<sup>th</sup>-largest insurance market.

She told Rep. Michael Henne (R-Clayton) that the use of data analytics is at the center of the rate-setting process. Rates, she said, need to be tied to the risk of loss or expense.

Rep. Andy Brenner (R-Powell) asked how the department will be reviewing auto insurance rates with the expected increase in the use of automated vehicles.

Ms. Froment said that will be a big issue in the future, adding the agency expects the industry to come to an agreement the same way insurance issues were addressed with ride-sharing services like Uber.

Discussions on that front are ongoing with large auto insurers, she said. "We're seeing them come to the table with some really good ideas."

**OAHP:** Ms. Motter said her members want to promote quality care and affordable coverage.

She said 52% of Ohioans receive their coverage through employer-sponsored plans, and a majority of those employer plans are self-insured. That means local business leaders are often the ones determining the scope of coverage for the majority of Ohioans.

A key issue for insurers is the cost of health services, Ms. Motter said. "If health care is expensive, health insurance is expensive," she said.

Ms. Motter also said lawmakers can take another step to address Ohio's opioid problem by limiting the availability of medication that can be addictive. She said OAHP backs federal recommendations to reduce the number of pills that are issued to treat certain conditions.

She also told Rep. Wes Retherford (R-Middletown) that the group opposes budget language that would eliminate transparency reforms that were included in the previous budget bill.

Rep. John Bocchieri (D-Alliance) raised questions about the importance of having health insurance coverage be portable, given new research indicating that many young people will change jobs many times over their lives. Ms. Motter said that is an issue that can be discussed among member plans.

**OII, AOLIC:** Dean Fadel of the Ohio Insurance Institute and Greg Lestini, representing the Association of Ohio Life Insurance Companies, also briefed the committee on the role and scope of their members' industries.

Mr. Fadel said there are 972 property and casualty companies licensed to do business in Ohio, and strong competition helps keep the state's average rates well below national averages.

The state's average auto insurance rate is the 12<sup>th</sup> lowest, while the average homeowner's insurance rate is 30% less than the national average, he said.

He said the industry is a key economic driver, accounting for a significant number of employees and economic activity.

Mr. Fadel said the industry is pleased that a number of educational institutions have added insurance-related programs and certificates, saying that training is important to the industry's future in Ohio.

Mr. Lestini also said Ohio is fortunate to have some of the lowest-cost life insurance options available.

He said 40 life insurers are domiciled in the state, and all insurers have six million policies valued at \$960 billion in place. Life insurance companies also make other contributions to the state by investing in mortgages and owning property, he said.

Mr. Lestini said Ohio is known as a stable state in terms of regulation, and it is important that the premium tax the industry pays is preserved. He also cautioned lawmakers against imposing new taxes on out-of-state insurers, saying the threat of retaliatory taxes could create issues for Ohio companies that sell policies elsewhere.

**Subscribers Note:** The presentations are available on the committee's website under Feb. 15.

### **Survey Shows Restaurant Owners Optimistic; Cedar Fair Has Record Fiscal Year; Diebold, DDR Report Financials**

Restaurant owners and operators entered the new year with optimism after a strong finish to 2016, according to Ohio Restaurant Association survey results.

Restaurateurs in the state told ORA that they're planning for a 4% same-store sales increase in 2017 after experiencing an average 3% sales increase across the industry last year.

"The Ohio restaurant scene is dynamic with growth opportunities for concepts with outstanding brand positioning, great food, A+ guest service and flexible models that offer many customer touch points such as mobile ordering and delivery," ORA President and CEO John Barker said in a statement.

"Same-stores sales in Ohio during the fourth quarter were positive for our industry, up more than 3% as we experienced mild weather and strong traffic around the holidays," he added. "Growth slowed in January, but owners are bullish about the year due to strong consumer confidence and a soaring stock market."

About 80 restaurateurs throughout the state with an average of 2.5 restaurants and revenue per company of about \$5.7 million replied to the survey, which also asked about food delivery utilization, food delivery impact, off-premise occasions, and food and labor cost outlooks.

**Cedar Fair:** The Sandusky-based theme park company continued to break records in 2016, ending the year with \$1.29 billion in revenues.

It reported the revenues, which were up 4% from 2015, along with net income, that came in at \$178 million, or \$3.14 per diluted limited partner unit.

The increases go hand-in-hand with others, including a 3% jump in attendance to 25.1 million guests last year, the company said. Average in-park spending also increased 2% to a record \$46.90 per guest.

Out-of-park spending also hit record numbers, coming in at \$146 million - a 6% increase from 2015. Cedar fair attributed those revenues in part to higher occupancy rates and average daily room rates at the company's resort properties.

"We credit this achievement to our unique regional brands and the positive responses we have received for our special events programming and immersive entertainment offerings," CEO Matt Ouimet said. "These individual park brands allow us to provide our guests an experience unmatched by other generic amusement parks. This in turn has resulted in strong guest loyalty within the regions we operate and decades of record growth across all revenue channels."

Based on the year-end earnings report, the company said it's confident it will achieve its long-term growth goal of \$500 million in Adjusted EBITDA by the end of 2017, which is a year earlier than planned.

**Diebold Nixdorf:** The company reported fourth-quarter revenue of \$1.2 billion - an increase of nearly 104% over last year as a result of the acquisition of Wincor Nixdorf.

Full-year revenue also increased 37.1% to \$3.3 billion compared to 2015, the company said. It cautioned, however, that comparisons to previous periods are materially affected by the August acquisition.

**DDR:** The Beachwood company posted fourth quarter net income attributable to common shareholders of \$28.1 million, or \$0.08 per diluted share.

For its full fiscal year ended Dec. 31, it reported net income of \$37.6 million, or \$0.10 per diluted share. That's an improvement over last year, when it saw a net loss of \$94.5 million, or \$0.27 per diluted share.

#### **Supplemental Agency Calendar**

**Thursday, February 16**

~~Canceled: Real Estate Appraiser Board, 77 South High Street, 22nd Floor, Columbus, 9:30 a.m.~~  
**Wednesday, February 22**

~~Racing Commission, 77 S. High St., Rm. 1960, Columbus, 10 a.m.~~

~~State Personnel Board of Review, 65 E. State St., 12th Fl., Columbus, 10 a.m.~~

**Wednesday, March 22**

~~State Personnel Board of Review, 65 E. State St., 12th Fl., Columbus, 10 a.m.~~

#### **Supplemental Event Planner**

**Wednesday, February 22**

**Ohio Farm Bureau Ag Day at the Capital, Sheraton Columbus Hotel, 75 State Street, Columbus  
Tuesday, March 21**

**Ohio Craft Brewers Association legislative reception, Wolf's Ridge Brewing, 215 N. 4th St.,  
Columbus, 5 p.m.**

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## Daily Activity Planner for Thursday, February 16

### Legislative Committees

House Finance: State Government & Agency Review Sub. (Chr. Faber, K., 466-6344), Rm. 121, 9 a.m.

- Budget testimony from Optical Dispensers Board, Optometry Board, Dietetics Board, and Public Testimony.

House State & Local Government (Committee Record) (Chr. Anielski, M., 644-6041), Rm. 116, 9 a.m.

**HB 5** **MICROBUSINESSES** (Pelanda, D., Gavarone, T.) To create a statutory definition of "microbusiness." (2nd Hearing-All testimony)

**HB 12** **OFFICIAL STATE STRUCTURE** (Gonzales, A.) To designate the barn as the official historical architectural structure of the state. (2nd Hearing-All testimony)

**HB 31** **GOVERNMENT CONTRACTING** (Cupp, R.) To abolish the Government Contracting Advisory Council. (2nd Hearing-All testimony)

**HB 34** **PUBLIC NOTICES** (Hambley, S., Ryan, S.) To authorize certain state agencies, local governments, and other boards, commissions, and officers to deliver certain notices by ordinary mail and electronically instead of by certified mail. (2nd Hearing-All testimony)

House Finance: Agriculture, Development & Natural Resources Sub. (Chr. Thompson, A., 644-8728), Rm. 018, 9 a.m.

- Budget testimony from OARDC and OSU Extension, Petroleum Underground Storage Tank Release Compensation Board, Environmental Review Appeals Commission and Consumers' Counsel

Joint Medicaid Oversight Committee (Committee Record) (Chr. Huffman, S., 466-7584), Finance Hearing Rm., 9 a.m.

- Expansion Population - Ohio Medicaid Group VIII Assessment by Barbara Sears, Director, Ohio Department of Medicaid

Joint Education Oversight Committee (Committee Record) (Chr. Hite, C., 466-8150), South Hearing Rm., 9:30 a.m.

- Presentation from Superintendent of Public Instruction Paolo DeMaria on Ohio's Draft Accountability Plan for the Federal Every Student Succeeds Act.

House Aging & Long Term Care (Committee Record) (Chr. Arndt, S., 644-6011), Rm. 113, 10 a.m.

- Presentations by the Ohio Department of Aging and Ohio Department of Job & Family Services

House Finance: Higher Education Sub. (Chr. Perales, R., 644-6020), Ohio History Center, 800 E. 17th Ave., Cardinal Classroom, Columbus, 12 p.m.

- Budget testimony from Ohio History Connection, Ohioana Library Board, Ohioana Library Association

### Agency Calendar



State Teachers Retirement System, 275 E. Broad St., Columbus, 8 a.m.  
School Employees Retirement System, 300 E. Broad St., Columbus, 8:30 a.m.  
~~Canceled: Real Estate Appraiser Board, 77 South High Street, 22nd Floor,~~  
~~Columbus, 9:30 a.m.~~  
Children's Trust Fund, 77 South High Street, 31st Floor, Room East B, Columbus,  
~~10 a.m.~~  
Tuition Trust Authority, 77 S. High St., 31st Fl., West B&C, Columbus, 10 a.m.

## Event Planner

No events scheduled.

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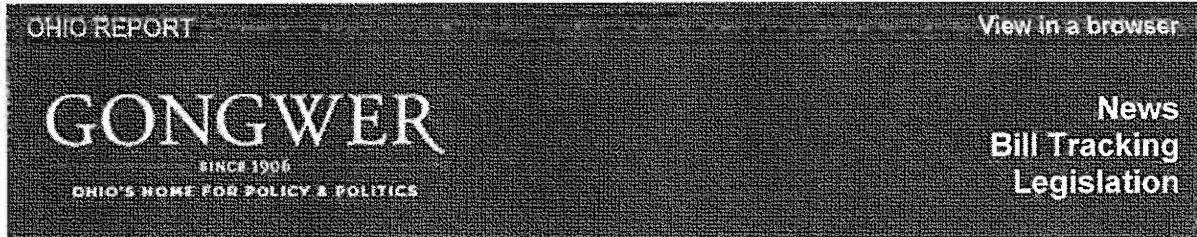
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## **OHIO REPORT WEDNESDAY, FEBRUARY 15**

**House Passes Bills Dealing With Cocaine, Taxes, Gambling; Speaker Talks Collective Bargaining**

**Critics Take Aim At Several Portions Of Transportation Budget**

**Senate Committee Debates Bill On Poll Workers, Death Notifications By Election Boards**

**Dating Protection Order Bill Eyed For Quick Committee Approval**

**Opponents Of 'Pastor Protection Act' Warn Of LGBT Discrimination, But Speaker Expresses Support**

**Senate Resumes Debate Over Disposal Of Fetal Remains**

**Senate Advances Measure Creating Perry County Municipal Court**

**Bill To Start School After Labor Day Will Get Thorough Review, Lehner Says**

**Victim's Rights Group Announces Campaign Kickoff**

**Lawmaker: CAUV Formula A 'Major Butt-Kicker' For Farmers**

**Insurers, Regulators Eyeing DC For Health Policy Changes**

**Survey Shows Restaurant Owners Optimistic; Cedar Fair Has Record Fiscal Year; Diebold, DDR Report Financials**

**Supplemental Agency Calendar**

**Supplemental Event Planner**

**Senate Committee Hearings**

**Ways & Means**

**Government Oversight & Reform**

**Education**

**House Committee Hearings**

**Transportation & Public Safety**

**Civil Justice**

**Finance**

**Insurance**

**Health**

**Finance: Agriculture, Development & Natural Resources Sub.**

**Community & Family Advancement**

**Finance: State Government & Agency Review Sub.**

## ACTIVITY REPORTS

House

Senate

## CALENDARS

Day Planner

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## House Activity for Wednesday, February 15, 2017

### INTRODUCED

- HB 64** ■ **RECORD EXPUNGEMENT** (Schuring, K., Reece, A.) To provide for the expungement of official records related to the apprehension, arrest, criminal charging, or trial of a person based on mistaken identity. Am. 2953.51, 2953.52, 2953.53, 2953.54, 2953.55, and 2953.61.
- HB 65** ■ **SANITARIAN REVIEWS** (Hill, B.) To require the Director of Agriculture and the Director of Health to adopt rules governing reviews of registered sanitarians and sanitarians-in-training who conduct inspections of retail food establishments and food service operations. En. 3717.042.
- HB 66** ■ **TENURED FACULTY** (Young, R.) To require permanently tenured state university or college faculty members to teach at least three credit hours of undergraduate courses per semester. Am. 3345.45 and to enact section 3345.451.
- HB 67** ■ **JUDGMENT CONFESSIONS** (Young, R.) To prohibit a person from obtaining a confession of judgment from another person except in connection with the settlement of a dispute. Am. 1337.53, 2323.12, and 2323.13 and to repeal sections 1907.09 and 2323.14.
- HB 68** ■ **VOYEURISM** (Anielski, M.) To include an impaired person as a potential victim of voyeurism, to include conduct involving an impaired person within the offenses of pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, and illegal use of a minor in a nudity-oriented material or performance, and to prohibit an owner, operator, administrator, or employee of a care facility from creating, sharing, reproducing, or publishing any image of a care facility resident without a proper purpose and without prior written consent from the resident. Am. 2903.33, 2903.34, 2907.08, 2907.321, 2907.322, 2907.323, and 2929.13.
- HB 69** ■ **TIF DISTRICTS** (Cupp, R.) To require reimbursement of certain township fire and emergency medical service levy revenue forgone because of the creation of a municipal tax increment financing district. Am. 5709.40.

**HB 70** ■ **FUEL TAX DISPLAYS (Merrin, D.)** To enact the "Fuel Tax Transparency Act" requiring stickers to be placed on retail service station pumps displaying the rates of federal and state taxes applicable to gasoline and diesel fuel. En. 5735.50.

## **PASSED**

**HB 4** ■ **COCAINE OFFENSES (Cupp, R., Rogers, J.)** To provide that in determining the amount of cocaine for trafficking and possession offenses, it also includes a compound, mixture, preparation, or substance containing cocaine, and to declare an emergency.  
EMERGENCY: 95-1 (Brinkman); BILL: 97-0  
Gongwer Coverage

**HB 11** ■ **TAX LAWS (Scherer, G.)** To expressly incorporate changes in the Internal Revenue Code since February 14, 2016, into Ohio law.  
97-0  
Gongwer Coverage

**HB 32** ■ **CASINO EMPLOYEES (Seitz, B.)** To specify that the criminal penalty related to casino operators and employees participating in casino gaming applies at their casino facility or an affiliated casino facility.  
94-3 (Antani, Ginter, T. Johnson)  
Gongwer Coverage

## **COMMITTEE HEARINGS**

### **Transportation & Public Safety**

**HB 16** ■ **ROAD NAMING (Cera, J.)** To designate a portion of State Route 43 in Jefferson County as the "Army Corporal Carl H. Bernhart Memorial Highway."  
(REPORTED (No testimony); 2nd Hearing-All testimony-Possible vote)

**HB 22** ■ **ROAD NAMING (Hambley, S.)** To designate a portion of State Route 261 in Medina and Summit Counties as the "Sergeant James F. Allen III Memorial Highway."  
(REPORTED; 2nd Hearing-All testimony-Possible vote)

Asley Rae Yeager submitted written testimony in support. "The significance of having a memorial highway designated in his name would mean so much to me personally, his daughter Natalie, son Tristan, as well as friends, family, and military comrades," she wrote.

"It will also stand as a daily encouragement to continue his legacy through goodwill and advocacy."

**HB 9** **TRAFFIC SIGNALS (Koehler, K.)** To specify that the alternative protocol for proceeding into an intersection with malfunctioning traffic lights due to a failure of a vehicle detector applies only to bicycles. (REPORTED; 2nd Hearing-All testimony-Possible vote)

Sgt. Nick Konves, of the Columbus Police Bicycle Coordination Unit, testified in support, saying he became aware of the bill that passed last session (HB154, 131<sup>st</sup> General Assembly) after seeing news reports and was concerned that any type of vehicle could treat red lights as stop signs in certain instances. He cited "blind intersections," differences between stop signs and traffic signals at intersections and the potential for crashes at the crossroads.

He said the prior legislation, which allows vehicles to proceed through malfunctioning traffic signals, allows for too much discretion. "This makes enforcement and prosecution very difficult and nearly impossible," he said. "I have testified many times in various court systems during my career and I foresee this causing a big problem for prosecution."

Responding to a question from **Rep. Michael Sheehy** (D-Oregon), the witness said that under the bill a bicycle could still proceed through an untriggered traffic signal after a "reasonable amount of time."

Patricia Kovacs, of the Ohio Bicycle Federation, said the bill passed last session should stand and allow for all motor vehicles to proceed through malfunctioning traffic signals. At minimum, motorcycles should also be included because they face the same issues as bicycles, she said.

"This law should really apply to any vehicle," she said.

**Subscribers Note:** Full testimony is available on the [committee's website](#) under Feb. 15. **Civil Justice**

**HB 1** **DATING PROTECTION ORDERS (Sykes, E., Manning, N.)** To authorize the issuance of dating violence protection orders with respect to conduct directed at a petitioner alleging dating violence, to provide access to domestic violence shelters for victims of dating violence, and to require the Attorney General's victim's bill of rights pamphlet to include a notice that a petitioner alleging dating violence has the right to petition for a civil protection order. (CONTINUED (See separate story); 1st Hearing-Sponsor & proponent)

**HB 7** **MEDICAL PROVIDER IMMUNITY (Cupp, R.)** To grant qualified civil immunity to certain medical providers who provide emergency medical services as a result of a disaster; to provide that certain communications made regarding an unanticipated outcome of medical care, the development or implementation of standards under federal laws, and an insurer's reimbursement policies on health care are inadmissible as evidence in a medical claim; to provide that medical bills itemizing charges are inadmissible as evidence and an amount accepted as full payment for medical services is admissible as evidence of the reasonableness of the charges; to specify the

manner of sending a notice of intent to file a medical claim and provide a procedure for the discovery of other potential claims within a specified period after the filing of a medical claim; to provide that any loss of a chance of recovery or survival by itself is not an injury, death, or loss for which damages may be recovered; to provide civil immunity to certain medical providers regarding the discharge of a patient with a mental condition that threatens the safety of the patient or others; to require that governmental agencies that receive peer review committee records maintain their confidentiality; and to clarify the definition of "medical claim." (CONTINUED; 1st Hearing-Sponsor)

**Rep. Robert Cupp** (R-Lima) described his bill as the product of months of talks with the Ohio State Medical Association and the Ohio Hospital Association. The Ohio Association for Justice, however, is "not on board" with all of the bill's provisions, he acknowledged. He said the bill would "fill in some of the gaps" in ten areas of existing medical malpractice tort law.

"An unfavorable medical liability climate can lead to expansive and expensive litigation, expensive and sometimes hard to obtain liability insurance, and a diminished supply of medical professionals to meet the needs of patients," he said. "Although the medical malpractice climate in Ohio has significantly improved in the past decade or so as a result of enactments by the General Assembly, there are several things which can further improve medical tort liability law and practice."

According to Rep. Cupp's overview, the bill would:

- Label communications from health care providers communicating error or fault to the list of inadmissible documentation.
- Reduce the need to sweep into the lawsuit unnecessary defendants.
- Permit a notice of intent to file a medical claim to be served by certified mail rather than in person.
- Abrogate the loss of chance theory of tort liability by restoring the "traditional concept of causation by abolishing the judicially-created loss of less than even chance of recovery theory of liability."
- Prevent insurance reimbursement policies from establishing a legal standard of care for medical tort liability.
- Correct existing language regarding nursing home plans of care by exempting hospitals and other providers from the language.
- Maintain the confidentiality of peer review records but clarify that they may be provided to regulators without losing confidential status.
- Prohibit the introduction of "phantom damages" into evidence.
- Provide limited immunity for certain healthcare providers or hospitals acting in good faith and in concert with professional standards when medically discharging a patient who has a mental health condition that may threaten the safety of the patient or others.
- Establish a different liability standard for medical care in the event of a widespread disaster event resulting in "widespread personal injury (or) loss of life that results from any natural or technological phenomenon or act of a human, or an epidemic."



Lawmakers raised several questions about the bill, including several focused on provisions labeling certain communications inadmissible and prohibiting the introduction of phantom damages into evidence.

Rep. Nicholas Celebrezze (D-Parma), for example, questioned whether it was within legislative purview to modify the rules of evidence. And Rep. Bill Seitz (R-Cincinnati) asked whether the phantom evidence provision might deter patients from seeking health insurance. Rep. Kristin Boggs (D-Columbus) asked who or what would determine whether a disaster qualifies under the bill. Rep. Cupp said that area of the bill could use some extra defining, although his inclination is to allow the jury to decide.

**Subscribers Note:** For full testimony, see the [committee's website](#) under Feb. 15.

## Finance

**HB 26** **TRANSPORTATION BUDGET (McColley, R.)** To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of those programs.  
(CONTINUED (See separate story); 3rd Hearing-All testimony)

**Subscribers Note:** Full testimony is available on the [committee's website](#) under Feb. 15.

## Insurance

See separate story.

## Health

The panel met briefly to accept the committee's rules for the new session and have members introduce themselves.

Chair Rep. Steve Huffman said the panel would not be meeting next week, and would not meet on Wednesday, April 5, the day after Gov. Kasich's State of the State address, which is scheduled to be held in Sandusky.

## Finance: Agriculture, Development & Natural Resources Sub.

The panel started its budget review work with [testimony](#) from Sarah Creedon, executive director of the Liquor Control Commission. (Redbook)

"The Commission is an adjudicatory and rule-making agency that oversees Ohio's alcohol beverage industry. The agency's mission is to provide fair and impartial hearings to protect the public and the permit holders, and to ensure compliance with Ohio liquor laws and administrative rules," she said. "The agency also adopts and promulgates rules, standards, and requirements regarding alcohol sales in Ohio."

Ms. Creedon said the commission works with the Ohio Investigative Unit, the Attorney General's Office, the Division of Liquor Control, and the Department of Taxation to achieve its mission.

"The Division of Liquor Control is responsible for processing applications and issuing liquor permits. Permit holders can appeal division decisions rejecting liquor permit applications and renewals to the commission. As an adjudicatory body, the commission functions as an administrative court with the same duties and obligations of any court," she explained.

The executive budget provides LCC with \$844,553 in Fiscal Year 2018, which is an 4% over estimated FY 2017 spending, and \$851,269 in FY 2019, which is an increase of 1% from the

prior year. Ms. Creedon said the money for commission operations comes from a portion of liquor permit fee revenue.

"While the commission receives no GRF funding, the commission does contribute to the GRF by depositing all revenue it collects from financial forfeitures issued against permit holders for violations of Ohio's liquor laws and rules," she said. "In fiscal year 2016, the commission collected over \$1.2 million in financial fines and forfeitures and deposited those funds into the GRF. In the current fiscal year to date, over \$1 million was collected and deposited into the GRF."

**Rep. Brigid Kelly** (D-Cincinnati) asked about the impact of the growing craft brew industry on the panel. Ms. Creedon said that while permit requests have increased, she hasn't seen a related uptick in cases before the commission.

She similarly told **Rep. Michael O'Brien** (D-Warren) that she couldn't correlate a caseload increase because of the Investigative Unit's transfer to the Highway Patrol a few years ago. Ms. Creedon told Rep. Kelly that the commission plans updates to its database and other improvements with the additional funds in the budget.

**Racing Commission:** Executive Director William Crawford briefed the committee on the operations of the commission, which regulates horseracing in the state. It also uses no GRF, and instead is funded through taxes on wagers, licensing fees, other fees and fines, and a small percentage of casino revenue, he said. (**Redbook**)

"The majority of the Racing Commission's expenditures are for subsidies to the horseracing industry in the form of additions to purses at live horse races as well as supplements to purses for Ohio horses that win races at Ohio tracks and other promotional expenses," he said. "Regulation expenses include administration expenses which also include officials and veterinarians as well as drug-testing expenses, expenses that relate to investigation, licensing and the enforcement of rules."

The commission's budget request is about \$32.3 million a year over the upcoming biennium. In addition to the five commission members, RAC currently staffs eight full-time and seven part-time positions, according to the Legislative Service Commission. The agency contracts with two stewards, two judges, and five veterinarians.

Chairman **Rep. Andy Thompson** (R-Marietta) asked if declining casino and VLT revenue, which makes up a big chunk of the agency's budget, has impacted its finances. Mr. Crawford said it has not done so considerably.

Rep. Kelly asked about efforts to ensure safety for riders and horses.

Mr. Crawford said the inspection of racing surfaces, which the commission oversees, is the main concern in that regard and that stewards watch races to make sure they are run safely. He told Rep. O'Brien that stewards can cancel races when the temperature dips below a minus 10-degree wind chill factor or following consultation with jockeys and drivers. Responding to the chairman, the witness said the commission spends about \$1.6 million a year on its drug testing program and investigating potential cheats is "a major concern of ours."

Racing Chairman Robert Schmitz briefly addressed the committee, explaining that the bulk of Ohio's racing industry is tied to Standardbreds and that with the installment of video lottery terminals at horse racetracks, has seen a resurgence after several years of declines.

A Standardbred breeder himself, Mr. Schmitz allowed that he bred his stock outside of Ohio for many years but now there's better breeding stock and other improvements due in part to increased funding from VLTs.

He said racing's impact to the state's agricultural industry is a "very, very big business."

**Sea Grant Program:** Christopher Winslow, director of the Ohio Sea Grant College Program, F.T. Stone Laboratory, and the Center for Lake Erie Area Research, testified in support of the program's budget and outlined its various education, research and outreach initiatives. **(Testimony)**

The program receives just under \$300,000 a year in state funding, which is used to leverage federal grants. **(ODHE-Agriculture Redbook)** The director said the program draws down about \$10 from other sources for every dollar of state funding it receives.

"Historically, Ohio Sea Grant has managed 8-10 research projects annually (~\$480,000). However, since April of 2015, we have increased that research portfolio dramatically. We currently have 119 projects listed within OSU's Office of Sponsored Program's research database," Mr. Winslow said in prepared testimony.

"The program is currently managing \$5 million in funding from the Ohio Department of Higher Education (ODHE; \$4 million in two \$2 million allocations) and OSU's College of Food and Agricultural Sciences (Field to Faucet Initiative; \$1 million) to address Lake Erie harmful algal blooms."

Mr. Winslow said Ohio Sea Grant and Stone Laboratory "are exceptional programs and assets to the entire state."

"We solve environmental problems (more than 50 ongoing research projects), enhance the local economy (i.e., business retention and expansion programming), inform decision makers, and improve the quality of science education in Ohio," he continued. "I would argue that since we first received funds in 1983, we have annually demonstrated that our line item is not a cost to Ohio, but a wise investment of valuable state funds."

Chairman Thompson lauded the public involvement promoted by the program and asked about invasive species.

The director said invasive mussels are "not going anywhere," and cited gobies as another example of non-native species that have infiltrated the Great Lakes. He said researchers are keeping an eye on four species of Asian carp, as they have made it up the Mississippi River drainage area to within 30 miles south of Lake Michigan.

Responding to questions about algae bloom research, he said the main source of nutrients that cause the problem can be traced to agriculture land management practices but that researchers aren't in the "finger-pointing" business. He said the group taps funds from two endowments to finance educational workshops for farmers on best practices in that regard.

Mr. Winslow also told members of the committee that he is working with donors to generate funding for equipment upgrades.

In response to a question from **Rep. Scott Lipps** (R-Franklin), he said buoys used for water quality research cost \$50,000-80,000 apiece.

## **Community & Family Advancement**

**HB 36**

**MARRIAGE CEREMONIES (Vitale, N.)** To provide that an ordained or licensed minister or religious society is not required to solemnize a marriage

and a religious society is not required to allow any building or property of the religious society to be used to host a marriage ceremony if the marriage does not conform to the ordained or licensed minister's or religious society's sincerely held religious beliefs, to provide that an ordained or licensed minister or religious society is not subject to civil or criminal liability for such a denial, and to provide that the state and political subdivisions may not penalize or withhold benefits to an ordained or licensed minister or religious society for such a denial. (CONTINUED-AMENDED (See separate story); 2nd Hearing-Proponent)

**Subscriber's note:** Full testimony is available on the [committee's website](#) under Feb. 15.

#### **Finance: State Government & Agency Review Sub.**

The subcommittee began its review with the Board of Embalmers and Funeral Directors.

##### **(Redbook)**

Tim Derickson, the board's director, testified that a significant issue the agency is facing is the increasing problems with pre-need funeral services, in which a person pays in advance for the service. Cash-strapped funeral service providers sometimes use that prepaid money, which is supposed to be saved until the service is needed, to meet their bottom line.

That trend causes an increase in the number of investigations and complaints, Director Derickson said, and the board is asking for more funding to add a staff member in two years to help with those investigations.

"To help solve this problem, I think this board needs a little help from what we're currently staffed at," he said.

He also said he expected legislation to be introduced this session with support from funeral home providers for a fee on pre-need services that would help cover costs of unmet pre-need services.

**Rep. Kirk Schuring** (R-Canton) suggested that legislation be introduced soon so it could be incorporated into the budget document, to avoid the board having expenses budgeted without the revenue to pay for them.

Chair **Rep. Keith Faber** (R-Celina) also discussed moving the money the board collects in fines to the General Revenue Fund, rather than returning it to the board, to avoid the appearance of the board fining businesses to meet its budget.

"If we were to make that transfer, you're going to need some additional revenue," Rep. Faber said.

The subcommittee also reviewed the Ohio Commission on Hispanic and Latino Affairs.

**(Redbook)** Executive Director Lilleana Cavanaugh said the commission's increased budget needs stem mostly from insurance and operating costs.

Asked by Rep. Faber what the commission would do if it did not receive the extra \$50,000 asked for in the budget, Ms. Cavanaugh said it would have to move a full-time position, one of three, to part-time.

"What is important is to know that through our commission, we're able to provide these agencies with an understanding of the Latino community, the language, the culture, thus decreasing those gaps in communication and culture," she said.

The panel also heard testimony in support of the commission from others, including Claudia de Leon, president of the Hispanic Chamber of Columbus. Ms. de Leon said the commission serves a vital role in the community.

"The Commission on Latino Affairs is a major bridge into the Hispanic community as well as a valuable resource to the Hispanic community, from creating more awareness of how our government works and the services available to help them achieve their educational or personal goals to alerting us of incoming or ongoing legislation that could have an impact to our increasing Hispanic population in Ohio," she said.

Another board reviewed by the panel was the Sanitarian Registration Board (Redbook), which Executive Secretary Stephanie Youst said registers people who are responsible for testing drinking water, inspecting restaurants and performing other public health tasks. The board proposed an increase in fees, which Ms. Youst said would help cover the increased costs of a new licensure system, rent, supplies and other items.

Ms. Youst said the board is necessary because it ensures public health departments and others have licensed, trained and qualified staff.

"The reason that you need sanitarian registration is sanitarians are responsible for protecting public health," she said.

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## Senate Activity for Wednesday, February 15, 2017

### INTRODUCED AND REFERRED

**SB 54** ■ **SUMMER FOOD PROGRAMS** (Brown, E., Lehner, P.) To require school districts to allow approved summer food service program sponsors to use school facilities to provide food service for summer intervention services under certain conditions. Am. 3313.813  
Government Oversight & Reform

**SB 55** ■ **NURSE STAFFING** (Skindell, M.) To establish minimum ratios of direct-care registered nurses to patients in hospitals, to specify rights of registered nurses working in hospitals, and to prohibit retaliatory actions by hospitals against registered nurses. Am. 3727.50, 3727.51, 3727.52, and 3727.53 and to enact sections 3727.80 to 3727.88  
Health, Human Services & Medicaid

**SB 56** ■ **STEP THERAPY** (Lehner, P., Tavares, C.) To adopt requirements related to step therapy protocols implemented by health plan issuers and the Department of Medicaid. Am. 5167.12 and to enact sections 3901.82, 3901.821, 3901.822, 3901.823, 5164.7512, 5164.7513, and 5164.7514  
Health, Human Services & Medicaid

**SR 37** ■ **CORPORATE PERSONHOOD** (Skindell, M.) To call on legislators at the state and federal level and other communities and jurisdictions to support an amendment to the United States Constitution that would abolish corporate personhood and the doctrine of money as speech.  
Transportation, Commerce & Workforce

### INTRODUCED

**SB 57** ■ **AWARENESS DAY** (Kunze, S.) To designate the seventeenth day of May as "Diffuse Intrinsic Pontine Glioma Awareness Day." Am. 5.291

**SCR 4** ■ **BALLOT ARGUMENTS** (Peterson, B.) To delegate to the President of the Senate and the Speaker of the House of Representatives authority to designate groups of members to prepare arguments for and against

amendments to the Ohio Constitution proposed by the General Assembly, a person or persons to prepare an argument for any law, section, or item submitted to the electors by referendum petition, and a person or persons to prepare an argument against any constitutional amendment proposed by initiative petition.

33-0

Gongwer Coverage

## **PASSED**

**SB 25**

**PERRY COUNTY COURT (Hottinger, J.)** To create the Perry County Municipal Court in New Lexington on January 1, 2018, to establish one full-time judgeship in that court, to provide for the nomination of the judge by petition only, to abolish the Perry County County Court on that date, to designate the Perry County Clerk of Courts as the clerk of the Perry County Municipal Court, and to provide for the election for the Perry County Municipal Court of one full-time judge in 2017 and to declare an emergency.

33-0; Emergency: 33-0

Gongwer Coverage

## **REFERRED**

### **Education:**

**SB 39**

**SCHOOL OPERATIONS (Schiavoni, J.)** Regarding community school operator contracts, the operation of Internet- and computer-based community schools, and performance metrics for blended learning schools.

Gongwer Coverage

### **Energy & Natural Resources:**

**SB 50**

**OIL GAS LAWS (Skindell, M.)** To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.

**SB 51**

**LAKE ERIE (Skindell, M., Eklund, J.)** To authorize the creation of a special improvement district to facilitate Lake Erie shoreline improvement.

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**SB 53** ■ **LAKE ERIE DRILLING (Skindell, M.)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

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## **Finance:**

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**SB 45** ■ **UNCLAIMED FUNDS (Williams, S.)** Regarding payment to a registered finder of unclaimed funds.

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## **Government Oversight & Reform:**

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**SB 44** ■ **CAMPAIGN FINANCE (LaRose, F.)** To allow certain campaign committees and other entities to file campaign finance statements electronically and to require the Secretary of State to make the information in those electronic statements available online.

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## **Judiciary:**

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**SB 40** ■ **AGGRAVATED MURDER (Eklund, J., Williams, S.)** To provide that a person convicted of aggravated murder who shows that the person had a serious mental illness at the time of committing the offense cannot be sentenced to death for the offense and to provide a mechanism for resentencing to a life sentence a person previously sentenced to death who proves that the person had a serious mental illness at the time of committing the offense.

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**SB 41** ■ **TESTIMONIAL PRIVILEGE (Eklund, J.)** To provide generally a testimonial privilege for communications between a qualified advocate rendering advocacy services and a victim of sexual violence, menacing by stalking, or domestic violence, to exempt the nondisclosure of that privileged communication from the offense of failure to report a crime, to require a qualified advocate to report knowledge or reasonable suspicion of child abuse or neglect of the victim except for privileged communications, and to specify circumstances in which the victim is considered to have waived the privilege.

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**SB 42** ■

**DRUG OFFENSES (Eklund, J.)** To expressly provide that drug offense penalties that refer to a particular type of drug also apply to a compound, mixture, preparation, or substance containing a detectable amount of that drug and to declare an emergency.

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### **Local Government, Public Safety & Veterans Affairs:**

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**SB 43** ■

**BUILDING CODES (Bacon, K.)** To enable limited home rule townships to adopt building codes regardless of any similar codes adopted by the county in which the township resides.

**SB 48** ■

**HEARING IMPAIRMENTS (Williams, S.)** To create a special license plate for hearing-impaired individuals and to require the Registrar to include an identifying symbol on a driver's license, commercial driver's license, or state-issued identification card of a hearing-impaired individual, if requested.

**SB 52** ■

**MARRIAGE CEREMONIES (Skindell, M.)** To allow any person or entity that registers with the secretary of state to solemnize marriages.

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### **Transportation, Commerce & Workforce:**

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**SB 46** ■

**ROAD NAMING (Williams, S.)** To designate portions of United States Route 422 within the municipal corporations of Cleveland and Youngstown as the "Arnold R. Pinkney Memorial Way."

**SB 47** ■

**NONCOMPETE LANGUAGE (Williams, S.)** To prohibit the use of noncompete provisions in employment contracts in the broadcasting industry.

**SB 49** ■

**EMPLOYMENT APPLICATIONS (Williams, S.)** To prohibit private employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.

## COMMITTEE HEARINGS

### Ways & Means

**SB 35** **TAX CREDIT (Skindell, M.)** To remove the income restriction on the earned income tax credit and to make the credit refundable beginning in 2017.  
(CONTINUED; 1st Hearing-Sponsor)

**Sen. Michael Skindell** (D-Lakewood) said the bill is the same as his previous effort to make the Earned Income Tax Credit refundable and remove current credit income restrictions (SB21, 131<sup>st</sup> General Assembly).

Ohio's current EITC equals about 10% of the federal EITC, he said. For those with adjusted gross incomes exceeding \$20,000, the credit is capped at 50% of tax due. The legislation would remove that cap.

Sen. Skindell said reducing that cap and making the credit refundable will "go a long way in reducing Ohio's poverty rate." He added that 26 states have EITCs that are refundable.

"A state refundable EITC is targeted to help low to moderate income working individuals and families," he said. "A refundable state EITC would have a significant impact on the long term economic well-being of our low income wage earners and our local and state economy."

**Sen. Peggy Lehner** (R-Kettering) questioned how many Ohioans were able take advantage of the credit last tax year. She asked whether she is correct in observing that the bill would benefit those with lower incomes who would not have much of a tax liability in the first place.

"Absolutely, and that's why we want to make it nonrefundable and remove those restrictions."

Sen. Skindell replied, adding that a lower tax burden frees up money for clothing or other essentials for those low-income families.

Responding to further questions, Sen. Skindell said the Legislative Services Commission analysis of his bill last year indicated the total cost of the proposal would be around \$180 million. In the eight legislative sessions he's been pushing for the change, he said that number has been fairly stable.

**SB 36** **AGRICULTURAL LAND (Hite, C.)** To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup and to stipulate that CAUV land used for a conservation practice or enrolled in a federal land retirement or conservation program for at least three years must be valued at the lowest of the values assigned on the basis of soil type.  
(CONTINUED (See separate story); 1st Hearing-Sponsor)

**SB 9** **SALES TAX HOLIDAY (Bacon, K.)** To provide for a three-day sales tax "holiday" in August 2017 during which sales of clothing and school supplies are exempt from sales and use taxes. (CONTINUED; 1st Hearing-Sponsor)

**Sen. Kevin Bacon** (R-Minerva Park) said his bill is the same as one he introduced last year that would institute a one-year sales tax holiday during the first weekend in August. (SB264, 131<sup>st</sup> General Assembly)

Although the sponsor said he still envisions a bill enacting a permanent annual holiday, he said he opted again for the one-time approach after it helped garner legislative and administrative support last session.

Once again the bill would create a three-day sales tax exemption on clothing items up to \$75 and on school supplies costing \$20 or less per item.

"Many of you may recall the first two sales tax holidays which were passed during the 131<sup>st</sup> General Assembly," he told the committee. "These events were highly advertised in every part of the state and very popular with Ohio residents. My office received letters of support from students, businesses, and educators following the first two sales tax holidays." He again touted a study from the University of Cincinnati that determined the 2015 holiday landed the state \$4.7 million in additional revenue. He said the university is once again compiling a study of the 2016 holiday that will be shared with the committee upon completion.

Chairman Sen. John Eklund (R-Chardon) said it would be "extraordinarily helpful" to receive that report by Feb. 21, although Sen. Bacon expressed doubt about that timeline. Sen. Sean O'Brien (D-Hubbard) requested the study include, if possible, a breakdown of the impact on counties bordering Pennsylvania, which has no sales tax on clothing items.

Sen. Sandra Williams (D-Cleveland) questioned why the Kasich administration has yet to endorse the sales tax holiday as an annual event.

Sen. Bacon replied that in his conversations with the administration, the governor's staff is committed to using the most conservative form of budgeting. The administration was supportive of both previous one-off holidays, he said, "and we are hoping they will be again."

~~Subscribers Note: For full testimony, see the committee's website under Feb. 15.~~

## **Government Oversight & Reform**

**SB 10** **PRIMARY ELECTIONS** (LaRose, F.) To expand the circumstances under which a board of elections or the secretary of state is not required to hold a primary election. (**CONTINUED**; 1st Hearing-Sponsor)

The bill's sponsor, Sen. Frank LaRose (R-Hudson), said it would eliminate the need for primary elections when only one candidate qualified for the ballot.

"I call this the superfluous primaries bill. This is that bill that is meant to address that rare situation where there is only one candidate on the ballot and we are forced to hold an election," he said.

The bill stems from a problem in which a special election is needed, costing taxpayers hundreds of thousands of dollars, for a race that has already been decided, he said.

"The fix to this is simple," he said. "We trigger the need for an election on how many candidates are certified for the ballot, not how many candidates file petitions for the ballot."

Sen. Edna Brown (D-Toledo) asked if it would apply if a candidate dropped out, leaving only one remaining.

"Essentially what this comes down to, if there's only one candidate left, then there's no need to hold an election," Sen. LaRose said.

**SB 18** **DAY DESIGNATION** (Thomas, C.) To designate September 12 as "Jesse Owens Day." (**CONTINUED**; 1st Hearing-Sponsor)

The bill would designate Sept. 12 as Jesse Owens Day, sponsor **Sen. Cecil Thomas** (D-Cincinnati) said. He was inspired after seeing the movie "Race" and learning that Jesse Owens was from Ohio.

Mr. Owens, who was born in Alabama, grew up in Cleveland and attended the Ohio State University, is best known for winning a record eight NCAA championships on the track in college and winning four gold medals at the 1936 Olympics in Berlin.

"Jesse Owens is remembered as an ambassador for American ideals, both at home and abroad," Sen. Thomas said. "While his incredible athleticism is impressive on its own accord, his legacy is all the more noteworthy because of the character he showed in the face of bigotry. Recognizing Jesse Owens on his birthday - September 12 - is a fitting tribute for one of Ohio's greatest native sons."

**SB 21** **ELECTION PROCEDURES (Uecker, J.)** To reduce the minimum number of precinct election officials in a precinct in which electronic pollbooks are used and to eliminate the requirement that a board of elections send a notice to a person's residence address when the board cancels the person's voter registration because it received a report of the person's death. **(CONTINUED (See separate story); 1st Hearing-Sponsor)**

**SB 28** **ABORTION (Uecker, J.)** Regarding final disposition of fetal remains from surgical abortions. **(CONTINUED (See separate story); 1st Hearing-Sponsor)**

#### Education

**SB 34** **ACADEMIC YEAR (Manning, G.)** To generally require public and chartered nonpublic schools to open for instruction after Labor Day. **(CONTINUED (See separate story); 1st Hearing-Sponsor)**

**SB 8** **SCHOOL TECHNOLOGY & SAFETY (Gardner, R., Terhar, L.)** To require the Ohio School Facilities Commission to establish a program assisting school districts in purchasing technology and making physical alterations to improve technology infrastructure and school safety and security. **(CONTINUED (See separate story); 1st Hearing-Sponsor)**

Without discussion, the committee confirmed the governor's appointments of Eric Poklar, Rebecca Vasquez Skillings, Charlotte McGuire and Martha Manchester to the State Board of Education.

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**Volume #86, Report #31 -- Wednesday, February 15, 2017**

**House Passes Bills Dealing With Cocaine, Taxes, Gambling; Speaker Talks Collective Bargaining**

Legislation to change how cocaine is accounted for in drug convictions passed the House unanimously Wednesday.

The House also advanced bills updating the state's tax code to align with federal changes and allowing Ohio casino employees to gamble at other casinos.

The cocaine bill (HB 4) passed unanimously after House members voted 95-1 to incorporate an emergency clause. That bill is designed to clarify the statute for how penalties for cocaine possession are assessed based on the amount of cocaine after an Ohio Supreme Court ruling interpreting the existing language, sponsor Rep. Robert Cupp (R-Lima) said. (See Gongwer Ohio Report, February 14, 2017)

The Supreme Court's decision in *State v. Gonzales* said the state must prove the actual weight of the cocaine included in compounds, excluding filler material, to use the amount for sentencing. Rep. Cupp said it would be costly and time-consuming for the state to invest in the laboratory equipment to prove that for these cases.

"The practical fact of the court's decision was to make every cocaine violation a fifth-degree felony unless the cocaine was pure," he said.

Rep. John Rogers (D-Mentor-on-the-Lake) said the bill, with the emergency clause, is needed now because there is currently no added penalty for trafficking in large amounts of cocaine compared to small amounts.

"As the law now stands, drug dealers and traffickers are incentivized to traffic in large quantities of cocaine," he said.

The House also voted unanimously to pass a bill (HB 11) to update the state's tax code with changes in federal law.

"As a CPA, I am well aware some of the tax laws can be a bit dull and difficult to understand, however this legislation is necessary so we can ensure Ohioans are able to fully benefit from the new federal laws this tax season," sponsor Rep. Gary Scherer (R-Circleville) said in a statement.

The other bill passed by the House (HB 32) would allow casino employees to gamble at other unaffiliated casinos in the state. Sponsor Rep. Bill Seitz (R-Cincinnati) said it simply gave casino employees the same right already given to racino employees.

"The only limitation by this bill is that you cannot be employed by or affiliated with the casino at which you are playing," Rep. Seitz said.

**Speaker's Comments:** Speaker Cliff Rosenberger (R-Clarksville) told reporters after session that while a number of his caucus members are supportive of recently introduced right-to-work legislation (HB 53), it's not a focus for leadership.

"We're always going to have members that want to introduce bills and do things. That's in their prerogative to do," he said. "We'll have conversations with the caucus, but I don't know that we have a game plan going forward."

The speaker said many in the legislature remember what happened with the last attempt at similar legislation (SB5, 129<sup>th</sup> General Assembly), which was repealed by voters. There might not be broad enough support for it, he said, though the state is facing pressure as more states implement similar policies.

"Ultimately for the state, the right-to-work pathway is one which is probably taken to the ballot," he said.

### **Critics Take Aim At Several Portions Of Transportation Budget**

Detractors of certain aspects of Gov. John Kasich's proposed two-year transportation budget on Wednesday spoke out against tax policy changes in the bill, urged more funding for public transportation and lobbied for increased fees for deputy registrars.

Testifying before the House Finance Committee, Matthew White, general counsel of IGS Energy, and Jason Phillips, policy director for Clean Fuels Ohio, both disagreed with a portion of the budget (HB 26) that would allow for the 28-cent-per-gallon Motor Fuel Tax to be levied on compressed natural gas. (Redbook)

Mr. White told the panel that the proposal would harm the fledgling industry while generating little revenue for the state.

"It would be unwise to now impose a tax on CNG in such an expedited manner without studying how the tax may harm the industry and without looking at the complexities of the tax code to ensure any tax is applied fairly," he said in testimony.

Rep. Alicia Reece (D-Cincinnati) questioned Mr. White on if he would be open to a phased-in approach.

In response, Mr. White said a phased-in tax may be appropriate when the CNG market share grows from its current 1% to 3% or more, but not in the current budget cycle.

"We would support a broader study of CNG, including how to incentivize it and how to make it work best for the state of Ohio," he said.

Rep. Adam Miller (D-Columbus) asked how much the federal alternative fuel tax credit weighs on his opposition to the MFT being imposed on CNG. Mr. White said given the political changes in the nation's capital, he is not hopeful that the federal tax credit will be renewed.

Mr. Phillips told the panel that financial incentives should be paired with the tax if it is imposed.

"Pennsylvania and other states that currently tax CNG pair this tax with a very healthy financial incentive to offset a new tax that would hurt the ROI," he said in testimony. "Pennsylvania has had an incentive program for several years, allocating over \$25 million to alternative fueled vehicle projects. It has been so successful that they have renewed the program."

Jeffrey Erb, president of the Ohio Association of Convenience Stores, raised concerns in his testimony over a proposal to change the point at which the MFT is collected. The proposed change would allow for the MFT to be collected at the refinery rack starting in 2018. Currently, the tax is paid at the wholesale level, giving business owners about a month after purchasing the motor fuel to sell it and collect taxes from customers before paying taxes to the state.

The change in the point of collection for the tax could generate as much as \$92 million per year in revenue, according to the Legislative Service Commission.

Mr. Erb said the change would negatively impact small businesses.

"I asked myself who would benefit by this change. The only answer I could come up with that made sense was big oil. They will be the ones to hold the excise tax if this change is made. There certainly is no crisis in collecting the excise tax now. The Ohio Business Gateway is very efficient for reporting and collecting the tax," he said.

"I also don't see this as being particularly helpful to the government. I hope the government does not see itself as more important than the honest hard working businessmen that produce goods and services that actually allow the government to function."

Rep. Rob McColley (R-Napoleon), the bill's sponsor, said in a recent interview that amendments are likely to address both of those issues. He also said a potential change allowing deputy registrar fees to increase could be in the works. (See Gongwer Ohio Report, February 13, 2017)

Aldo Filippelli, president of the Ohio Deputy Registrars' Association, said in his testimony that a fee change is warranted given the current \$3.50 level was set in 2004.

He requested the fee be boosted by \$2.50 with additional increases of 50 cents in 2020 and 2021.



Rep. Robert Sprague (R-Findlay) questioned if it would be more appropriate to phase in such an increase over time.

Mr. Filippelli said that may have worked six or seven years ago, but at this point he is losing employees because of the salaries he is able to pay.

Joe Bowsher, a deputy registrar for the past two decades, said that since the last fee increase, operating costs have increased significantly.

"As an employer, I find that the wages that I pay are below other employers in my area including Wal-Mart, White Castle and most non-skilled positions. As a small business owner, it frustrates me that my employees are paid \$10 per hour with little or no benefits, and the state employees in the same job are earning \$6 more each hour plus benefits," he said in testimony. "For me to raise wages for my staff to the same amount as state employees would cost me over \$120,000 per year, not including taxes and benefits."

Rep. Dan Ramos (D-Lorain) questioned Mr. Bowsher on the number of his employees that receive public assistance. "The state of Ohio is not saving any money if your employees are on public benefits," he said.

Mr. Bowsher said that at least one of his 13 employees receives public assistance.

Several proponents of public transportation also urged lawmakers to make additional investments in the area.

Jason Warner, manager of government affairs at the Greater Ohio Policy Center, applauded a proposal to use federal money to increase funding for public transportation by \$10 million for a total of \$33 million. However, he said the state could do more and suggested that an additional \$17 million in federal funds be flexed for public transportation.

"Setting aside a total of \$50 million in FHWA funding to public transit will result in 7.5 fewer miles of highway expansion, or 24 miles of highway repaired per year. For perspective, ODOT paved 5,564 lane miles in 2015," he said in testimony.

"Allocating \$50 million per year of FHWA fund to transit-related capital investments will have negligible impact on Ohio's crucial highway maintenance and construction programs, while significantly improving safety, performance, and use of Ohio's public transportation systems."

Asked about the impact that public transportation can have on the tourism industry in a city, Mr. Warner used the example of Cleveland, which hosted the 2016 Republican National Convention, and Columbus, which lost out to Philadelphia for the Democratic National Convention. Public transportation played a major role in that, he said.

"There was no other method for them to get down to where the main convention site was going to be," he said of Columbus and the lack of transportation options from John Glenn International Airport.

Nathan Alley, transportation policy coordinator for the Ohio Chapter of the Sierra Club, echoed many of those sentiments in his testimony. He told the panel that for every \$1 invested in public transit, it generates \$6 in economic activity.

"We appreciate the allocation of additional flex funding to transit in this proposed budget, but even with that allocation, it is our understanding that transit would still be left with a \$20 million deficit because of anticipated changes to our state sales tax structure," he said.

"Please do all that you can in this budget cycle to ensure that we achieve economic development, increase employment opportunities, reduce urban sprawl and congestion, and create more livable communities for all Ohioans."

Akshai Singh of Ohio for Transportation Equity told the panel that the state needs to invest \$192.4 million in capital and \$96.7 million in operating funds just to meet existing demand for public transportation services.

"Ohio needs a 21st century transportation system, made up not only of roads and highways, but also a complete network of affordable, accessible, and sustainable transportation options, including public transit, passenger and freight rail, electric buses and vehicles, and walk-able, bike-able streets. We need at least \$300 million a year to address the cost of backlogged capital needs, and start to build a system of transit alternatives for the future," he said in testimony.

Katie Frederick, executive director of the American Council of the Blind of Ohio, asked lawmakers to increase funding for public transportation from its current level of 1% to 10%.

The Cincinnati chamber applauded the \$10 million increase in funding for public transportation, saying it will allow the Southwest Ohio Regional Transit Authority to replace aging and outdated vehicles.

"At the beginning of this year, SORTA had 63 buses past their 12- year useful life," the group wrote. "Every year beyond this threshold means increased operating and maintenance costs. A 15- year- old bus costs 133% more to maintain than a 10- year- old bus. As of January, Metro had 40 buses that are 15 years old or older, resulting in more than \$500,000 in additional annual operating expense. This additional \$10M can help unlock federal resources to more rapidly replace the outdated fleet that currently transports people throughout our region."

The group also said that it would be supportive of an amendment to increase funding to Transportation Improvement District across the state. It also noted its support for increased investment in transportation technology.

"As you review programs to pilot innovations in transportation, we look forward to working with you to identify opportunities in southwest Ohio to deploy new technology and bring our state to the fore of innovation in transportation," it wrote.

Also providing testimony was Shane Lieurance, a deputy registrar, and the Cincinnati USA Regional Chamber, the latter in written form.

### **Senate Committee Debates Bill On Poll Workers, Death Notifications By Election Boards**

A Senate panel Wednesday questioned a bill that would reduce the minimum number of election officials needed at certain precincts and change requirements for boards of elections to notify households when deceased individuals are removed from voter rolls.

Members of the Senate Government Oversight and Reform Committee said they wanted to ensure polling places have proper supervision and that people know if they are mistakenly removed from voter rolls.

The bill (SB 21) would grant permissive authority for county boards of elections to reduce the minimum number of election officials from four to two in multi-precinct locations that use electronic poll books, sponsor Sen. Joe Uecker (R-Loveland) said.

"Electronic poll books are revolutionizing voting in precincts across Ohio," he said.

"These digital tablets are currently utilized by fifty-five counties. Their use will continue to increase as more counties take advantage of enacted state funds to assist in the cost. Electronic poll books eliminate reliance on traditional paper poll books creating a better and more efficient experience for voters and poll workers."

That authority is permissive, meaning boards of elections would have the right to do so but would not be required, he said.

Sen. Edna Brown (D-Toledo) said she was worried the county board would be pressured to cut costs even if they didn't think it was the best course of action.

"My concern is that county commissioners might pressure boards of elections to make these reductions and then perhaps cause other problems," she said.

Sen. Uecker said the bill would help county boards in areas where one party is dominant and they have trouble finding enough election officials of the other party.

"I think it makes a more proper as well as a more efficient election process," he said.

Sen. Brown suggested the bill require it to be a bipartisan decision by the board of elections to reduce the number of election officials required, and the sponsor said he'd be open to exploring possible amendments.

Sen. Frank LaRose (R-Hudson) said he was worried that having fewer election officials could mean there would be times when only officials from one party were working.

"When there's only two, my worry would be that during the normal ebb and flow of the day as people take a lunch break, a bathroom break, that you have bipartisan oversight," he said.

The bill would also remove a requirement that a board of election send notice to a person's address when the board cancels a voter registration because it received a report of his or her death. Families have complained to boards of elections, Sen. Uecker said, about the emotional toll of receiving such notices.

Sen. LaRose said he was concerned that removing the requirement could lead to voters accidentally being removed from the rolls and not finding out until they go to vote. He said that recently happened to a Legislative Service Commission staffer.

"The idea was that just like any other change in voting status, there would be a notification sent to the household," he said.

Sen. Michael Skindell (D-Lakewood) said stopping the notifications could lead to some people being unable to vote. That outweighs the concerns of families who are upset by receiving the notification, he said.

"Causing cancellation is the greater harm," he said.

Sen. Brown said she would like to hear more from county boards of elections about how they receive death notifications.

Sen. Uecker said he would be open to whatever the committee decides to do with the provision, but asked that members keep an open mind and hear testimony from local election officials.

### **Dating Protection Order Bill Eyed For Quick Committee Approval**

A priority House bill to permit domestic partners to obtain civil protection orders appears poised for quick committee passage, according to the committee's chairman.

The measure (HB 111) would close a loophole that sponsor Rep. Emilia Sykes (D-Akron) said "leaves thousands of Ohioans without recourse in the event of dating violence."

After a first hearing Wednesday featuring emotional testimony from domestic violence survivors and advocates, House Civil Justice Committee Chairman Rep. Jim Butler (R-Oakwood) said the bill should move quickly.

"We'll probably have it for a possible vote next week," he said.

That's good news for Rep. Sykes and other advocates who were disheartened when the bill which had been on the verge of passing fizzled out during the lame duck session when the Senate declined to take a concurrence vote.

In that case, the language from Rep. Sykes and former Rep. Christie Kuhns was amended into a separate bill on the House floor during the final night of session. The Senate then opted not to move the bill, saying the amendment was too "complicated" to pass at the zero hour. (See Gongwer Ohio Report, December 9, 2016)

Now the bill is back with the support of Republican House leadership and with Rep. Nathan Manning (R-N. Ridgeville) stepping in as lead co-sponsor in place of former Rep. Kuhns.

In her testimony, Rep. Sykes said abuse victims who don't meet the statutory definition of domestic violence have too little recourse to protect themselves and their children.

"House Bill 1 is necessary because Ohio currently defines domestic violence as violent acts occurring between spouses, family members, those cohabiting, living as spouses, or individuals who share a child in common," Rep. Sykes said. "People in ongoing, substantial, intimate, and dating relationships are not included."

Rep. Manning emphasized the bill would not create an additional class of protection order. Rather, it would fold domestic partners into those eligible to apply for existing orders.

"Due to the risk of ongoing violence in these situations, it is important that all victims of abuse have resources to protect themselves," Rep. Manning said. "Many people argue that a piece of paper is not going to protect someone from harm, but studies have shown that violence stops completely or is significantly reduced when a protection order is in place."

Others testifying in support included representatives from the Summit County Victim Assistance Program, Northeast Ohio Medical University and its police department, and Cleveland Clinic Akron General along with a Summit County Juvenile Court judge.

But perhaps the most powerful testimony came from a pair of domestic violence survivors who described in detail their experience.

Victoria Morgan described having her own protection order request rejected only to see her attacker later force his way into her home and kick her twice down a staircase.

"A lot of times, people only think about the physical signs of abuse," she said. "But the emotional is so much worse. Going through counseling, putting my children through counseling. ... I urge you to pass this bill. It's needed."

Liv Out Loud Founder and CEO Diona Clark recounted her experience in which she ended a relationship, and then her ex-boyfriend arrived at her new home with a gun, trapping her inside.

"After about an hour, he finally let up from the door and I went to reach for the doorknob and he shot me twice at point blank range, once in the chest and once in the wrist," she said.

"My life was spared, but another life could be lost due to lack of proper protection and services to turn to," she continued. "HB 1 can provide adequate help for individuals in need. I am determined to fight for individuals who are victimized; therefore I am determined to fight for HB 1."

### **Opponents Of 'Pastor Protection Act' Warn Of LGBT Discrimination, But Speaker Expresses Support**

Speaker Cliff Rosenberger indicated support Wednesday for a controversial bill on same-sex marriage, which a couple hours later was the target of intense criticism from several clergy members and other opponents.

Similar legislation (HB286, 131st General Assembly) was introduced in the last legislative session but never cleared committee.

However, Speaker Rosenberger (R-Clarksville) said after session the bill (HB 36) is a priority for many House Republicans, and that it would reaffirm protections already enshrined in the Ohio Constitution.

"We have a lot of people in the caucus interested to see something happen with this," he told reporters.

The speaker said his caucus is going to talk more about the bill next week.

"The state constitution already provides for a lot of protections and I think what we'll be doing is passing a bill that just reaffirms that," he said.

Prior to Wednesday's committee testimony, which focused on opponents, Rep. Nino Vitale (R-Urbana) amended the bill with language he said would clarify that it does not invalidate other rights of clergy members.

Afterward, a Democratic lawmaker, nearly a dozen pastors and others denounced the controversial measure, which would codify that no licensed minister or religious organization is required to perform or host a marriage ceremony that does not conform to their religious beliefs.

Delivering testimony to the panel, Rep. Nickie Antonio said the so-called Pastor Protection Act is unnecessary, offensive to members of Ohio's LGBT community and has the potential to damage the state economically.

The Lakewood Democrat said in testimony that both federal and state law provide religious freedom protections that prevent ministers and religious institutions from being forced to take part in wedding ceremonies with which they disagree. She likened the legislation to a controversial North Carolina law that prevented local governments from implementing anti-discrimination laws and forced transgendered individuals to use the restroom of their birth gender.

"If we codify discrimination in Ohio through this bill, we could open the floodgates to confusion and the public's overall disgust with discriminatory legislation," she said. "We need look no further than North Carolina to know that bills that would codify discrimination, don't sell. In North Carolina, PayPal cancelled 400 jobs, Bruce Springsteen canceled his concert, the NBA pulled the All-Star Game, and the NCAA moved its championship games out of state, costing millions, if not billions in lost revenue and payroll."

Rep. Antonio instead suggested that lawmakers move legislation that would ban LGBT discrimination in employment and housing.

"No matter how this debate goes forward I believe it is important for us to remember that we may disagree and discern another person or group to be wrong-but when that discernment causes us to value another person or group less, then we've crossed the line into judgment, condemnation, and exclusion," she said. "I am hopeful we will not cross that line. I respect the members of the clergy who have concerns my hope is that we will experience mutual respect for the dignity and worth of all couples including same sex couples."

Rep. Janine Boyd (D-Cleveland Hts.) asked Rep. Antonio, the first openly gay member of the Ohio legislature, if she and her married partner considered having their wedding ceremony in a place of worship that is not open to non-traditional marriage.

"We went to the place that we knew would embrace us, that would celebrate us," Rep. Antonio replied.

Rep. Michael Sheehy (D-Oregon) asked if she is aware of any lawsuits filed due to a member of the clergy's failure to solemnize a marriage. Rep. Antonio said she is not aware of any such litigation. Even so, she said the bill would not prevent such a lawsuit from being filed.

"With or without this law, anyone in Ohio has the ability to file a lawsuit if they feel they have been wronged," she said.

Rev. Virginia Lohmann Bauman, senior pastor of St. John's United Church of Christ in Columbus, called the legislation "a thinly veiled attempt to legitimize bigotry" and drew a

comparison with the U.S. Supreme Court case of *Loving v. Virginia*, in which the high court struck down laws banning interracial marriage.

"And yet for decades after that case was decided, and in fact, even today, racist pastors in their own churches refuse to marry, with impunity, inter-racial couples they deem unfit to be married in their church," she said in her testimony. "And that right to officiate, or not, in the pastor's own house of worship, is constitutionally protected by our federal and state constitutions. Interestingly, at no time after the *Loving* decision did the Ohio legislature find it necessary to 'protect' pastors from being 'forced' to marry inter-racial couples outside of that pastor's faith beliefs."

Rep. Niraj Antani (R-Miamisburg) took issue with the characterization that the legislation is an attempt to "legitimize bigotry" and questioned Ms. Lohmann Bauman on how she could be so certain that there is no need for the measure.

"There is no precedent for this. How can you say this is redundant?" he asked.

Ms. Lohmann Bauman responded by saying that it is not the job of the legislature to legislate "hypothetical fears" and said that U.S. Supreme Court Justice Anthony Kennedy in the *Obgerfell* decision legalizing same-sex marriage made clear that it would not interfere with religious protections provided by the First Amendment.

Rep. Ron Hood (R-Ashville) questioned whether Ms. Lohmann Bauman was characterizing those members of the clergy who support the measure as bigots. (See *Gongwer Ohio Report*, February 8, 2017)

"I do believe they are asking the legislature to do something inappropriate," she said, adding that the question would be best answered by each of the members of the clergy supporting the legislation.

Rep. Stephanie Howse (D-Cleveland) asked Ms. Lohmann Bauman if she is aware of any lawsuits filed against a member of the clergy that has refused to conduct a marriage ceremony for any reason.

"There are none that I'm aware of," she said.

Ms. Lohmann Bauman was among 11 members of the clergy that submitted testimony in opposition to the bill.

Rev. Joseph M. Cherry of the Unitarian Universalist Society of Cleveland raised the specter that the legislation could pave the way to allow civil servants to discriminate against members of the LGBT community.

"Civil servants must fulfill the law or face the consequences," he said in his testimony. "They are not subject to exception based upon their faith, religion or tradition. If they do not wish to perform all of the duties that their civil position requires, they are free to seek other employment. No one is conscripted into civil service."



Rev. J. Bennett Guess of the United Church of Christ, who said he refused to sign marriage licenses for the 11-year period in which the ban against same-sex marriage was enshrined in the state constitution, called the bill "a solution in search of a non-existent problem."

"Bogus is the only word I have for it," he said in prepared testimony. "While purportedly designed to protect clergy and places of worship from performing or hosting marriages against their wishes, it is unnecessary and a complete waste of taxpayers' time and money."

Opposition testimony, however, was not confined to members of the cloth and Rep. Antonio. Alana Jochum of Equality Ohio told the panel that the legislation gives wide latitude to undefined "religious societies."

"Religious entities play many roles in our state. Catholic Charities and Salvation Army, for example, provide a host of social services, crisis intervention, temporary housing, after school programs, and even food assistance. Many receive state and federal funding to do so, and are obligated to serve everybody equally in these programs," she said in prepared testimony. "Religious entities, therefore, are not always simply 'houses of worship;' they also include entities that engage in commerce -- by operating conference centers, reception halls, engaging in equipment rental, and much more."

Lisa Wurm, policy manager for the ACLU of Ohio, said her organization would defend the freedom of religion if clergy members were required to conduct marriages that violate their religious tenets.

"At the same time, we will not allow the guise of religious freedom to harm others," she said in prepared testimony. "This is what it means when religious liberty turns from acting as a shield to a sword. We've rejected the sword approach during the civil rights era, when religion was used as a reason to refuse integration in businesses and in our public areas. We need to continue to reject it now."

### **Senate Resumes Debate Over Disposal Of Fetal Remains**

Legislation dealing with the disposition of fetal remains from abortions had its first hearing in a Senate committee Wednesday, with some members voicing concerns that it would face legal challenges.

The bill (SB 28) is similar to one introduced last session (SB254, 131st General Assembly) as part of a flurry of legislation that followed an investigation by Attorney General Mike DeWine into the disposal of remains.

The measure's sponsor, Sen. Joe Uecker (R-Loveland), told the Senate Government Oversight and Reform Committee the bill is designed to ensure the proper disposal of remains.

"Last year it was brought to my attention that the Ohio Revised Code does not contain procedures regarding the disposal of aborted infant remains," he said. "In fact, most states lack such policies."

The bill declares that an abortion facility can only dispose of aborted remains through cremation or interment and grants the mother the right to determine the final disposition of remains, Sen. Uecker said. It would also require the Department of Health to maintain records of the woman's decision and the final disposition.

Sen. Kenny Yuko (D-Richmond Hts.), the ranking Democrat on the panel, said similar legislation in Indiana and Texas has been challenged and overturned in courts, and he was worried it was setting the state up for expensive legal issues.

He also said there didn't appear to be any real reason for the bill, as investigations have not turned up a pattern of problems with the disposal of remains.

"I know as legislators, we get contacted by people asking us to look at possible legislation and here's the reason why," he said. "I just can't think of the reason why in this case."

Sen. Uecker said the state should take steps to ensure fetal remains are respected.

"I believe that the right to life is the very first right we have, possibly the most important right we have," he said. "I believe that the way society shows this is crucial."

He also said he believed there were differences between his bill and the legislation in Texas and Indiana, and that it would be more likely to withstand judicial scrutiny.

Sen. Frank LaRose (R-Hudson) asked if the bill would apply to all fetal remains or just those from surgical abortions. The sponsor said it would only apply to the remains from surgical abortions.

Sen. Michael Skindell (D-Lakewood) asked if it was appropriate for the state to single out one kind of fetal remains.

"What state interest is being served by the unequal treatment of just surgical fetuses versus any other fetal death?" he asked.

Chairman Sen. Bill Coley (R-Liberty Twp.) said he and the committee will take a serious look at vetting all of the legal implications of the bill with the hopes of avoiding burdening the state with lawsuits.

#### **Senate Advances Measure Creating Perry County Municipal Court**

Once again, the Senate unanimously passed legislation to establish a county municipal court in Perry County.

The latest 33-0 vote, during a session Wednesday, marked the third time the chamber has approved the bill. In the most recent instance, the bill cleared the Senate, only to be held up in a House committee during the 2016 lame duck session. (SB 299, 131<sup>st</sup> General Assembly)

"This will be the third time this body has voted on this and it's my hope the House can act expeditiously on it and we can secure timely order of justice for the citizens of Perry County," sponsor Sen. Jay Hottinger (R-Newark) told colleagues on the Senate floor.

In addition to creating the court, the bill (SB 25) authorizes one full-time judgeship and provides for the nomination of that judge by petition. Upon its effect, the bill would abolish the existing Perry County Court and designate the county's clerk of courts as the clerk of the newly formed court.

Supporters - including the Ohio Supreme Court - say the court is needed after New Lexington eliminated its mayor's court in 2013, a cost-saving move that increased the caseload of other county courts from 1,800 cases a year to between 5,000-6,000 cases a year.

The bill contains an emergency clause, which was accepted by a 33-0 vote. That provision was necessitated, Sen. Hottinger said, by a committee amendment requested by the Ohio Supreme Court.

Added earlier this week, the amendment allows members of the Criminal Justice Recodification Committee to continue serving after they're no longer officeholders.

The Senate also unanimously passed a resolution (SCR 4) that permits the Senate President and House Speaker to appoint individuals to write arguments for and against proposed constitutional amendments.

Similar provisions have been passed unanimously each session since 1974, said sponsor Sen. Bob Peterson (R-Sabina).

**Obhof Gaggle:** Speaking to reporters after session, Senate President Larry Obhof (R-Medina) said he anticipates the chamber will act quickly on approving the governor's request for a joint session April 4 in Sandusky for the State of the State address. (See Gongwer Ohio Report, February 13, 2017)

Formal resolutions to convene the joint session had not been introduced by lawmakers in either chamber as of Wednesday afternoon.

"I think it's a great opportunity to showcase some of our natural resources, particularly the lake," he said. "I've spoken with (Sen. Randy) Gardner several times about possible activities up there and I think this will give us a chance to focus on some of the water quality efforts we've done over the last few years and maybe some that are coming up and to highlight Ohio's tremendous tourism industry."

He said the Senate could hold two or three committee meetings on site in Sandusky, although no firm plans have been made.

Asked about the recent introduction of a House right-to-work bill (HB 53), Sen. Obhof said the issue isn't a priority for Senate leadership.

"As with any piece of legislation, we'll give thoughtful consideration to anything that comes to our chamber," he said. "I would say you'd have to speak to the individual caucus members but we have done significant reforms in recent years.

"I'm not aware of anybody in the Senate that plans to introduce a bill about that subject but there are 33 members and I haven't called the other 32 to see where everybody is on what bills everyone's introducing. I don't micromanage like that," he continued.

### **Bill To Start School After Labor Day Will Get Thorough Review, Lehner Says**

It is unlikely that watchers of a bill that would move the first day of school to after Labor Day will know soon whether it has the Senate Education Committee's support.

Chairwoman Sen. Peggy Lehner (R-Kettering) said she's planning for long discussions on the bill (SB 34) as well as another to create a funding program for school technology infrastructure upgrades (SB 8).

"I think both of the ones that were in (committee) today are going to require a fair amount of hearings," she said.

The panel will also extensively review anticipated legislation on end-of-course exams and student suspensions in addition to a recently referred bill (SB 39) addressing questions about e-school attendance tracking, she said.

The school start date measure, sponsored by Sen. Gayle Manning (R-N. Ridgeville), has generated considerable buzz among school districts and parents since it was first unveiled late in the last General Assembly.

Waiting to open schools until after Labor Day would alleviate issues caused by a lack of air conditioning or functioning windows in schools when it is hot, as well as give families more time to vacation, Sen. Manning said.

"This additional vacation time for families also helps to promote economic activity," she said. "This can create and maintain jobs, providing additional local tax revenues that support our schools and local public safety resources."

Sen. Manning stressed that the bill shouldn't interfere with local control because it has an opt-out provision allowing school boards to continue setting the start dates of their choosing. Boards would be required to hold a public hearing before voting to opt out.

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The change from calculating the school year in days to hours would also make it possible for districts to maintain their current end dates while pushing back the start date, she added.

While tourism industry leaders are expected to once again testify in support of the measure that they say will benefit the state's economy, it's likely many school districts won't be in favor.

Sen. Lehner said after the meeting that she's "open to" starting school in September because other states already require it without issue. However, she acknowledged there could be logistical problems and that public hearings on the issue have the potential to cause rifts between schools and parents.

"At what point does it become an opt out versus a, 'Hell no we won't go,'" she questioned.

Regardless of concerns and the inability of the proposal to pass through previous legislatures, the chairwoman at the end of Wednesday's discussion promised Sen. Manning that the bill will continue to be seriously considered.

The committee also heard sponsor testimony on a bill to allow schools that are low on the School Facilities Commission's priority funding list to receive dollars now for technology and safety upgrades. A companion measure (HB 37) started its journey through the House Education and Career Readiness Committee on Tuesday. (See [Gongwer Ohio Report, February 14, 2017](#))

Joint sponsor Sen. Randy Gardner (R-Bowling Green) said he'll be pushing to move the bill through the upper chamber before spring break.

"This was a recommendation in Senate Bill 3 (in the 130<sup>th</sup> General Assembly), but this amps this issue up another notch to do something that we believe can be very meaningful for schools and school children around the state," he said of the bill that would require the School Facilities Commission to create a technology infrastructure funding program as opposed to current law that permits it.

Sen. Gardner told committee members that the two-page bill would give OSFC the ability to structure the program in the way it deems best after receiving input from stakeholders.

Despite his optimism that the bill will be reported out of committee in the next few weeks, Sen. Lehner said it will likely require multiple hearings and stakeholder meetings to continue "ironing out some of the questions."

She suggested that the sponsors consider whether charter schools would be eligible for the funding and Sen. Vernon Sykes (D-Akron) raised questions about if and how district priority would be determined.

## **Victim's Rights Group Announces Campaign Kickoff**

Law enforcement officials and advocates on Wednesday announced the official kickoff of a statewide campaign to enshrine new requirements for the treatment of crime victims into the Ohio Constitution.

Supporters of the so-called Marsy's Law, named after a murder victim who died in 1983 and patterned after similar laws in other states, appeared at a Statehouse news conference and urged support for the changes, which if the coalition is successful would appear on the Nov. 7 ballot.

The Marsy's Law for Ohio amendment would mandate that crime victims: Receive notification of all legal proceedings; are provided the opportunity to be heard during the various steps of the process, such as parole hearings; are allowed to give input on plea deals; and are provided restitution resulting from the financial impact of the crime.

"By placing guarantees into the Ohio Constitution that a victim's rights will be protected, Marsy's Law for Ohio will be another important tool for prosecutors in the battle to help crime victims," longtime Franklin County Prosecutor Ron O'Brien said in a statement.

While the state's constitution already includes some protections for crime victims, supporters of the amendment say they don't go far enough.

"The rights of crime victims are too important to be allowed to fall through the cracks in the criminal justice system," Franklin County Sheriff Dallas Baldwin said. "I have long believed that the rights of crime victims should be respected just as much as the rights of the accused. Marsy's Law for Ohio is a much-needed change to Ohio's constitution."

Also appearing at Wednesday's event were representatives of crime victim advocacy groups and survivors of violent crimes.

"My rights as a victim in the domestic violence case against my husband were routinely violated and no one in the system seemed to care," crime victim Danielle Morlan said. "Marsy's Law for Ohio will change that and give crime victims the ability to protect and enforce their rights."

The campaign committee was cleared to begin collecting signatures last week when the Ohio Ballot Board agreed the proposal constituted a single issue. (See Gongwer Ohio Report, February 8, 2017)

Supporters have until July 5 to gather 305,591 valid signatures and meet other requirements to qualify for the fall ballot.

## **Lawmaker: CAUV Formula A 'Major Butt-Kicker' For Farmers**

Sen. Cliff Hite (R-Findlay) on Wednesday renewed his effort to overhaul the Current Agricultural Use Value tax formula in testimony before the Senate Ways & Means Committee.

The proposal he outlined (SB 36) is identical to his prior bill on the subject (SB246, 131<sup>st</sup> General Assembly), he said. But he's hoping this year's bill will fare better than the last, which received six hearings in the Senate but failed to advance beyond committee.

"I understand the angst. I'm sure the Department of Taxation is going to pull their hair out," Sen. Hite said. "We've been thinking about this and talking about this for a long time. It's time to do something. It's time to give relief to these farmers."

Farmer groups for their part have already vowed to "carry the CAUV fairness fight into 2017." They say the formula that has worked fine for decades has become skewed and is driving up their tax burdens, threatening to force them out of the profession. (See Gongwer Ohio Report, December 20, 2016)

Opponents, including statewide school groups, have previously opposed the change out of concerns it will negatively impact school funding.

Predicting that those concerns will return before the committee in testimony this session, Sen. Hite urged lawmakers to put themselves in the position of farmers.

"If any of you were doing your taxes this time of year and you discovered your taxes were going to go up 300% you would freak out, especially if you're on a fixed income, especially if you're a brand new, let's say, farmer trying to get started," he said."

The bill would prohibit the use of certain nonagricultural factors in the valuation of farmland, which the sponsor said would improve the accuracy of the formula.

"Including these assumptions has no bearing upon the land's capability to produce agricultural income, which is the sole purpose of the CAUV formula," he said. "These factors arbitrarily inflate the value of farmland based on market considerations and do not in any way account for how much income is achieved."

The bill would also remove disincentives to engage in conservation practices, which he said undermines the formula's original intent to preserve land.

"If I don't have an incentive to keep my woodlands, I'm going to plow them down and make more money," Sen. Hite said. Although that is currently happening, he said, it's not yet occurring on a large scale.

He acknowledged that the taxation percentage for some farmers is currently going down, but asked lawmakers to keep that in perspective.



"To me going from (a) 350% (increase) to 310% is going down but, in layman Coach Hite language, it's a major butt-kicker anyway," he said. "It's not even apples and oranges. It's like apples and squirrels."

In response to questions, Sen. Hite committed to providing specific numbers on several aspects of the issue to senators moving forward. Among the unanswered questions was how the CAUV applies to urban farmers.

Sen. Hite did express support for an idea from Sen. Louis Terhar (R-Cincinnati) to implement a "collar" on the formula so that the taxes owed in any one year could not rise above or drop below specific levels.

"But there's a caveat," Sen. Hite replied. "The formula from the '70s has the capacity to also go down and so if you change that formula the chances of going way down would be eliminated with the (collar). I don't know what is better."

Sen. Peggy Lehner (R-Kettering) requested more detail on woodland preservation regarding the CAUV. Sen. Hite replied that the woodland in question is typically small and serves as a wind or snow buffer. Under the current formula, however, farmers stand to gain money from clearing that land to free up new farmland, he said.

Sen. Bob Hackett (R-London) agreed that something must be done. He criticized a time lag present in the formula in which farms going through tough times are still paying taxes for healthy years from 2012 and 2013. Meanwhile, he said, the industry is struggling with historically low interest rates and simultaneously high crop prices.

"We just have to update the rules and make them fit the times," Sen. Hackett said.

Sen. Bob Peterson (R-Sabina) agreed the historically low capitalization rates have "skewed the formula" and forced land values to be higher than they should be.

Predicting a robust discussion on the issue as the bill moves forward, Sen. Hite requested committee members keep in mind the importance agriculture plays in Ohio's economy. Potential farmers are being deterred from entering the profession, he said.

"We can't allow that to happen when it's our number one industry in the state of Ohio," he said. "This is a change to make sure we preserve that."

### **Insurers, Regulators Eyeing DC For Health Policy Changes**

State insurance regulators and the health insurance industry are closely monitoring the federal debate over the future of the Affordable Care Act to determine the impact that changes could have on Ohio consumers and the marketplace, stakeholders told a House panel on Wednesday.

Jillian Froment, deputy director of the Ohio Department of Insurance, and Miranda Motter, president and CEO of the Ohio Association of Health Plans, both said changes could have a far-reaching impact on the Ohio market.

Ms. Froment told the House Insurance Committee that the full impact of any federal changes won't be known until a final product is in place.

She said, however, that insurers will be filing their 2018 rates and policies within the next two months. "We are incredibly concerned about what this looks like for Ohio," she said.

Ms. Froment noted that those filings will be based on current law. If there are changes, ODI will have to be flexible to accommodate for adjustments.

"At this point, they're looking for clarity," she said of insurers. "And that's what the department's looking for."

Ms. Motter said federal changes could either bring stability or volatility to insurance markets.

The federal law, she said, did little to address health care costs, and said efforts should be made to identify key cost drivers - including medical service rates and prescription costs. Further, she said OAHP wants to increase transparency so Ohioans have more information about the cost of the medical services they are obtaining.

Other key cost-related issues, she said, are state and federal mandates, taxes and fees.

**ODI:** In an introductory presentation, Ms. Froment told the panel the agency regulates insurers and agents across Ohio, and is pleased that Ohio is home to a robust insurance industry. The agency's goal is to assure consumer protection while promoting a stable and competitive environment.

She said Ohio is the sixth-largest state by premium volume, and represents the world's 17<sup>th</sup>-largest insurance market.

She told Rep. Michael Henne (R-Clayton) that the use of data analytics is at the center of the rate-setting process. Rates, she said, need to be tied to the risk of loss or expense.

Rep. Andy Brenner (R-Powell) asked how the department will be reviewing auto insurance rates with the expected increase in the use of automated vehicles.

Ms. Froment said that will be a big issue in the future, adding the agency expects the industry to come to an agreement the same way insurance issues were addressed with ride-sharing services like Uber.

Discussions on that front are ongoing with large auto insurers, she said. "We're seeing them come to the table with some really good ideas."

**OAHP:** Ms. Motter said her members want to promote quality care and affordable coverage.

She said 52% of Ohioans receive their coverage through employer-sponsored plans, and a majority of those employer plans are self-insured. That means local business leaders are often the ones determining the scope of coverage for the majority of Ohioans.

A key issue for insurers is the cost of health services, Ms. Motter said. "If health care is expensive, health insurance is expensive," she said.

Ms. Motter also said lawmakers can take another step to address Ohio's opioid problem by limiting the availability of medication that can be addictive. She said OAHP backs federal recommendations to reduce the number of pills that are issued to treat certain conditions.

She also told Rep. Wes Retherford (R-Middletown) that the group opposes budget language that would eliminate transparency reforms that were included in the previous budget bill.

Rep. John Boccieri (D-Alliance) raised questions about the importance of having health insurance coverage be portable, given new research indicating that many young people will change jobs many times over their lives. Ms. Motter said that is an issue that can be discussed among member plans.

**OII, AOLIC:** Dean Fadel of the Ohio Insurance Institute and Greg Lestini, representing the Association of Ohio Life Insurance Companies, also briefed the committee on the role and scope of their members' industries.

Mr. Fadel said there are 972 property and casualty companies licensed to do business in Ohio, and strong competition helps keep the state's average rates well below national averages.

The state's average auto insurance rate is the 12<sup>th</sup> lowest, while the average homeowner's insurance rate is 30% less than the national average, he said.

He said the industry is a key economic driver, accounting for a significant number of employees and economic activity.

Mr. Fadel said the industry is pleased that a number of educational institutions have added insurance-related programs and certificates, saying that training is important to the industry's future in Ohio.

Mr. Lestini also said Ohio is fortunate to have some of the lowest-cost life insurance options available.

He said 40 life insurers are domiciled in the state, and all insurers have six million policies valued at \$960 billion in place. Life insurance companies also make other contributions to the state by investing in mortgages and owning property, he said.

Mr. Lestini said Ohio is known as a stable state in terms of regulation, and it is important that the premium tax the industry pays is preserved. He also cautioned lawmakers against imposing new taxes on out-of-state insurers, saying the threat of retaliatory taxes could create issues for Ohio companies that sell policies elsewhere.

**Subscribers Note:** The presentations are available on the committee's website under Feb. 15.

### **Survey Shows Restaurant Owners Optimistic; Cedar Fair Has Record Fiscal Year; Diebold, DDR Report Financials**

Restaurant owners and operators entered the new year with optimism after a strong finish to 2016, according to Ohio Restaurant Association survey results.

Restaurateurs in the state told ORA that they're planning for a 4% same-store sales increase in 2017 after experiencing an average 3% sales increase across the industry last year.

"The Ohio restaurant scene is dynamic with growth opportunities for concepts with outstanding brand positioning, great food, A+ guest service and flexible models that offer many customer touch points such as mobile ordering and delivery," ORA President and CEO John Barker said in a statement.

"Same-stores sales in Ohio during the fourth quarter were positive for our industry, up more than 3% as we experienced mild weather and strong traffic around the holidays," he added. "Growth slowed in January, but owners are bullish about the year due to strong consumer confidence and a soaring stock market."

About 80 restaurateurs throughout the state with an average of 2.5 restaurants and revenue per company of about \$5.7 million replied to the survey, which also asked about food delivery utilization, food delivery impact, off-premise occasions, and food and labor cost outlooks.

**Cedar Fair:** The Sandusky-based theme park company continued to break records in 2016, ending the year with \$1.29 billion in revenues.

It reported the revenues, which were up 4% from 2015, along with net income, that came in at \$178 million, or \$3.14 per diluted limited partner unit.

The increases go hand-in-hand with others, including a 3% jump in attendance to 25.1 million guests last year, the company said. Average in-park spending also increased 2% to a record \$46.90 per guest.

Out-of-park spending also hit record numbers, coming at \$146 million - a 6% increase from 2015. Cedar fair attributed those revenues in part to higher occupancy rates and average daily room rates at the company's resort properties.

"We credit this achievement to our unique regional brands and the positive responses we have received for our special events programming and immersive entertainment offerings," CEO Matt Ouimet said. "These individual park brands allow us to provide our guests an experience unmatched by other generic amusement parks. This in turn has resulted in strong guest loyalty within the regions we operate and decades of record growth across all revenue channels."

Based on the year-end earnings report, the company said it's confident it will achieve its long-term growth goal of \$500 million in Adjusted EBITDA by the end of 2017, which is a year earlier than planned.

**Diebold Nixdorf:** The company reported fourth-quarter revenue of \$1.2 billion - an increase of nearly 104% over last year as a result of the acquisition of Wincor Nixdorf.

Full-year revenue also increased 37.1% to \$3.3 billion compared to 2015, the company said. It cautioned, however, that comparisons to previous periods are materially affected by the August acquisition.

**DDR:** The Beachwood company posted fourth quarter net income attributable to common shareholders of \$28.1 million, or \$0.08 per diluted share

For its full fiscal year ended Dec. 31, it reported net income of \$37.6 million, or \$0.10 per diluted share. That's an improvement over last year, when it saw a net loss of \$94.5 million, or \$0.27 per diluted share.

#### **Supplemental Agency Calendar**

**Thursday, February 16**

~~Canceled: Real Estate Appraiser Board, 77 South High Street, 22nd Floor, Columbus, 9:30 a.m.~~

**Wednesday, February 22**

~~Racing Commission, 77 S. High St., Rm. 1960, Columbus, 10 a.m.~~

~~State Personnel Board of Review, 65 E. State St., 12th Fl., Columbus, 10 a.m.~~

**Wednesday, March 22**

~~State Personnel Board of Review, 65 E. State St., 12th Fl., Columbus, 10 a.m.~~

#### **Supplemental Event Planner**

**Wednesday, February 22**

**Ohio Farm Bureau Ag Day at the Capital, Sheraton Columbus Hotel, 75 State Street, Columbus  
Tuesday, March 21**

**Ohio Craft Brewers Association legislative reception, Wolf's Ridge Brewing, 215 N. 4th St.,  
Columbus, 5 p.m.**

**17 S. High St., Suite 630**

**Columbus Ohio 43215**

**Phone: 614-221-1992 | Fax: 614-221-7844 | Email: [gongwer@gongwer-oh.com](mailto:gongwer@gongwer-oh.com)**

**Scott Miller, President | Kent Cahlander, Editor | Melissa Dilley, Mike Livingston, Dustin  
Ensinger, Jon Reed, Staff Writers**

**Click the  after a bill number to create a saved search and email alert for that bill.**

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## Daily Activity Planner for Thursday, February 16

### Legislative Committees

House Finance: State Government & Agency Review Sub. (Chr. Faber, K., 466-6344), Rm. 121, 9 a.m.

- Budget testimony from Optical Dispensers Board, Optometry Board, Dietetics Board, and Public Testimony.

House State & Local Government (Committee Record) (Chr. Anielski, M., 644-6041), Rm. 116, 9 a.m.

**HB 5** **MICROBUSINESSES** (Pelanda, D., Gavarone, T.) To create a statutory definition of "microbusiness." (2nd Hearing-All testimony)

**HB 12** **OFFICIAL STATE STRUCTURE** (Gonzales, A.) To designate the barn as the official historical architectural structure of the state. (2nd Hearing-All testimony)

**HB 31** **GOVERNMENT CONTRACTING** (Cupp, R.) To abolish the Government Contracting Advisory Council. (2nd Hearing-All testimony)

**HB 34** **PUBLIC NOTICES** (Hambley, S., Ryan, S.) To authorize certain state agencies, local governments, and other boards, commissions, and officers to deliver certain notices by ordinary mail and electronically instead of by certified mail. (2nd Hearing-All testimony)

House Finance: Agriculture, Development & Natural Resources Sub. (Chr. Thompson, A., 644-8728), Rm. 018, 9 a.m.

- Budget testimony from OARDC and OSU Extension, Petroleum Underground Storage Tank Release Compensation Board, Environmental Review Appeals Commission and Consumers' Counsel

Joint Medicaid Oversight Committee (Committee Record) (Chr. Huffman, S., 466-7584), Finance Hearing Rm., 9 a.m.

- Expansion Population - Ohio Medicaid Group VIII Assessment by Barbara Sears, Director, Ohio Department of Medicaid

Joint Education Oversight Committee (Committee Record) (Chr. Hite, C., 466-8150), South Hearing Rm., 9:30 a.m.

- Presentation from Superintendent of Public Instruction Paolo DeMaria on Ohio's Draft Accountability Plan for the Federal Every Student Succeeds Act.

House Aging & Long Term Care (Committee Record) (Chr. Arndt, S., 644-6011), Rm. 113, 10 a.m.

- Presentations by the Ohio Department of Aging and Ohio Department of Job & Family Services

House Finance: Higher Education Sub. (Chr. Perales, R., 644-6020), Ohio History Center, 800 E. 17th Ave., Cardinal Classroom, Columbus, 12 p.m.

- Budget testimony from Ohio History Connection, Ohioana Library Board, Ohioana Library Association

### Agency Calendar

State Teachers Retirement System, 275 E. Broad St., Columbus, 8 a.m.  
School Employees Retirement System, 300 E. Broad St., Columbus, 8:30 a.m.  
~~Canceled: Real Estate Appraiser Board, 77 South High Street, 22nd Floor,~~  
~~Columbus, 9:30 a.m.~~  
Children's Trust Fund, 77 South High Street, 31st Floor, Room East B, Columbus,  
~~10 a.m.~~  
Tuition Trust Authority, 77 S. High St., 31st Fl., West B&C, Columbus, 10 a.m.

## Event Planner

No events scheduled.

17 S. High St., Suite 630  
Columbus Ohio 43215

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**From:** Springhetti, Blake  
**Sent:** Monday, March 20, 2017 11:35 AM  
**To:** House\_All  
**Subject:** Co-Sponsor Request: Exempt State Employees Pay Portion of Dental, Vision, and Life  
**Attachments:** Co-Sponsor Request - Requiring Exempt State Employees to Pay Healthcare Premiums.pdf



**Representative Derek Merrin**  
47<sup>th</sup> District  
**MEMORANDUM**

**TO:** All House Members

**FROM:** Representative Derek Merrin

**DATE:** March 20, 2017

**RE:** Co-Sponsor Request: Exempt State Employees Pay Portion of Dental, Vision, and Life Insurance Premiums

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I will be introducing legislation that requires exempt state employees to pay a portion of their dental, vision, and life insurance premiums. Exempt state employees currently pay 15% of their premium for medical insurance – while paying 0% of the premium for dental, vision, and life insurance coverage. This legislation requires exempt state employees pay the same percentage for dental, vision, and life coverage as they pay for their medical insurance premium.

**Key Facts:**

- By having exempt state employees pay 15% of their dental, vision, and life premiums, taxpayers would save at least \$2.6 million annually.

- Legislation would impact about 16,400 exempt state employees.
- Legislation directs the state to seek the same provision when negotiating collective bargaining agreements that cover about 55,900 unionized state employees, which would save taxpayers an additional \$4.7 million annually.

If you would like to co-sponsor this legislation or have any questions, please contact my Legislative Aide, Blake Springhetti, at [Blake.Springhetti@ohiohouse.gov](mailto:Blake.Springhetti@ohiohouse.gov) or at (614) 466-1731 by Tuesday, March 28 at 5:00 P.M.

Sincerely,



# Ohio House of Representatives



**Representative Derek Merrin**

47<sup>th</sup> District

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### Key Facts:

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- Legislation would impact about 16,400 exempt state employees.
- Legislation directs the state to seek the same provision when negotiating collective bargaining agreements that cover about 35,900 unionized state employees, which would save taxpayers an additional \$4.7 million annually.

If you would like to co-sponsor this legislation or have any questions, please contact my Legislative Aide, Blake Springhetti, at [Blake.Springhetti@ohiohouse.gov](mailto:Blake.Springhetti@ohiohouse.gov) or at (614) 466-1731 by **Tuesday, March 28 at 5:00 P.M.**

Sincerely,



**Derek Merrin**  
Ohio House of Representatives  
House District 47  
Office (614) 466-1731  
Derek.Merrin@ohiohouse.gov  
77 S. High Street  
Columbus, Ohio 43215

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**RE:** Co-Sponsor Request: Exempt State Employees Pay Portion of Dental, Vision, and Life Insurance Premiums

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I will be introducing legislation that requires exempt state employees to pay a portion of their dental, vision, and life insurance premiums. Exempt state employees currently pay 15% of their premium for medical insurance – while paying 0% of the premium for dental, vision, and life insurance coverage. This legislation requires exempt state employees pay the same percentage for dental, vision, and life coverage as they pay for their medical insurance premium.

**Key Facts:**

- By having exempt state employees pay 15% of their dental, vision, and life premiums, taxpayers would save at least \$2.6 million annually.
- Legislation would impact about 16,400 exempt state employees.
- Legislation directs the state to seek the same provision when negotiating collective bargaining agreements that cover about 35,900 unionized state employees, which would save taxpayers an additional \$4.7 million annually.

If you would like to co-sponsor this legislation or have any questions, please contact my Legislative Aide, Blake Springhetti, at [Blake.Springhetti@ohiohouse.gov](mailto:Blake.Springhetti@ohiohouse.gov) or at (614) 466-1731 by Tuesday, March 28 at 5:00 P.M.

Sincerely,



# Ohio House of Representatives



**Representative Derek Merrin**

47<sup>th</sup> District

## MEMORANDUM

**TO:** All House Members

**FROM:** Representative Derek Merrin

**DATE:** March 20, 2017

**RE:** Co-Sponsor Request: Exempt State Employees Pay Portion of Dental, Vision, and Life Insurance Premiums

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**Derek Merrin**  
Ohio House of Representatives  
House District 47  
Office (614) 466-1731  
Derek.Merrin@ohiohouse.gov  
77 S. High Street  
Columbus, Ohio 43215



**From:** Springhetti, Blake  
**Sent:** Monday, March 27, 2017 11:18 AM  
**To:** House\_All  
**Subject:** Reminder: Co-Sponsor Request: Exempt State Employees Pay Portion of Dental, Vision, and Life  
**Attachments:** Co-Sponsor Request - Requiring Exempt State Employees to Pay Healthcare Premiums.pdf

**Reminder: The deadline to co-sponsor is  
tomorrow at 5pm**



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Derek.Merrin@ohiohouse.gov  
77 S. High Street  
Columbus, Ohio 43215



**From:** JENNIFER.DIAZ@ohioturnpike.org

**Sent:** Tuesday, May 9, 2017 8:59 AM

**To:** mayorhruby@brecksville.oh.us; gdixon3@gcrta.org; Jerry.Wray@dot.ohio.gov; sbarber@fultoncountyoh.com; Michael\_Peterson@goodyear.com; timkcon@obm.ohio.gov; kurt.kauffman@obm.ohio.gov; Jennifer.Townley@dot.ohio.gov; Terri.Barnhart@dot.ohio.gov; blongo@brecksville.oh.us; tparadiso@paradisomgt.com; tpendleton@paradisomgt.com; RANDY.COLE@ohioturnpike.org; teresa.brooks@obm.ohio.gov; Frank.LaRose@ohiosenate.gov; kimberly\_dipierro@goodyear.com; Myron.Pakush@dot.ohio.gov; Christine.Rosa@dot.ohio.gov; Rep07; Capri S. Cafaro; Trefny, Charles; Stephanie Baker

**CC:** JENNIFER.STUEBER@ohioturnpike.org;

MARTIN.SEEKELY@ohioturnpike.org; MATTHEW.COLE@ohioturnpike.org;

SHARON.ISAAC@ohioturnpike.org; DAVID.MILLER@ohioturnpike.org;

ADAM.GREENSLADE@ohioturnpike.org;

TONY.YACOBUCCI@ohioturnpike.org;

BRIAN.NEWBACHER@ohioturnpike.org; MARK.MUSSON@ohioturnpike.org;

WILLIAM.KEATON@ohioturnpike.org

**Subject:** Second Notice - OTIC May 15, 2017 Commission Meeting

**Attachments:** DRAFT MINUTES OF THE 04-17-17 MEETING - 639th .pdf;

Second Notice for the 5-15-17 Commission Meeting.pdf; 1 - Resolution Approving Selection Kokosing Constr. Corp. Under Project 59-17-03.pdf; 2 - Resolution Approving Selection of 3M to Supply Retroreflective and Non-Reflective Sheeting Under Inv. 4292.pdf; 3 - Resolution Authorizing Participation in ODOT COOP Contract 018-18 for Road Salt for 2017&2018 Season.pdf; 4 - Resolution Authorizing the Acquisition of Software, Services & Maint for OnBase from Prime AE.pdf; Agenda 5-15-17.pdf

Dear Commission Members:

Attached please find the draft Minutes of the April 17, 2017 Commission Meeting; second notice for the May 15, 2017 Commission Meeting, which will commence at 10:00 a.m.; the Meeting Agenda; and resolutions:

1. Resolution Approving the Selection of Kokosing Construction Company to Repair and Resurface the Roadway in Cuyahoga County Under Project No. 59-17-03 for the Total Amount of \$3,910,734.35 and Approving the Assignment of GPD Group and CTL Engineering, Inc. to Perform the Professional Services for the Project;

2. Resolution Approving the Selection of the 3M Company to Supply Reflective and Non-Reflective Sheeting and Electronic Cuttable Overlay Film Under Invitation No. 4292 for a Period of One Year, with the Options to Renew for Two Additional One-Year Periods, in the ~~Total Estimated Amount of \$195,000.00;~~
3. Resolution Authorizing Participation in the ODOT Cooperative Purchasing Program Contract 018-18 for Road Salt During the 2017/2018 Winter Season;
4. Resolution Authorizing the Acquisition of Software, Professional Services and Maintenance Support for the OnBase Document Management System and Workflow Solution from Prime AE Group, Inc. in the Total Amount of \$172,804.92; and
5. Resolution Authorizing Execution of the Collective Bargaining Agreements for the Full-Time, Part-Time and Radio Room Operator Bargaining Units Represented by the Teamsters Local Union 436.

If you are unable to attend the Commission Meeting, please do not hesitate to contact me. Thank you.

Sincerely,



**Jennifer Diaz**

*Legal Department*

Ohio Turnpike and Infrastructure Commission

682 Prospect Street, Berea, Ohio 44017

Phone: (440) 971-2064

Email: [jennifer.diaz@ohioturnpike.org](mailto:jennifer.diaz@ohioturnpike.org)

Website: [www.ohioturnpike.org](http://www.ohioturnpike.org)



**MINUTES OF THE 639<sup>th</sup> MEETING OF THE  
OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION  
APRIL 17, 2017**

**Chairman:** Good morning. Will you please stand and join me in reciting the *Pledge of Allegiance*?

The meeting will come to order. Have all guests signed the sign-in sheet in the Lobby? If not, please do so prior to leaving, so we can maintain an accurate account of attendance.

Today, we welcome State Representative Thomas F. Patton, who was appointed to the Commission on February 1, 2017, by the Speaker in the Ohio House of Representatives, 132<sup>nd</sup> General Assembly. I believe you all remember Tom's background. He was the Chairman of the Senate Transportation Committee, Majority Leader in the Senate, and he is now serving as the Majority Whip in the House. Thank you and welcome to the Commission. It is great to have you. We look forward to your expertise in the various things that we partake in.

Unfortunately, Mr. Dixon, Ms. Cafaro and Mr. Kauffman are unable to attend today's meeting and are excused. Also, Chief Engineer, Tony Yacobucci is not here today, but Chris Matta is here and Chris will do an outstanding job.

Will the Assistant Secretary-Treasurer please call the roll?

**Assistant Secretary-Treasurer:** Chairman Hruby

**Chairman Hruby:** Here

**Assistant Secretary-Treasurer:** Vice Chairman Paradiso

**Vice Chairman Paradiso:** Here

**Assistant Secretary-Treasurer:** Commissioner Barber

**Secretary-Treasurer Barber:** Here

**Assistant Secretary-Treasurer:** Mr. Peterson

**Mr. Peterson:** Here

**Assistant Secretary-Treasurer:** Mr. Pakush

**Mr. Pakush:** Here

**Assistant Secretary-Treasurer:** Senator LaRose

**Senator LaRose:** Here

**Assistant Secretary-Treasurer:** Representative Patton

**Representative Patton:** Here

**Chairman:** We have a quorum. This is the 639<sup>th</sup> Meeting of the Ohio Turnpike and Infrastructure Commission. We are meeting here at the Commission's headquarters, as provided for in the Commission's Code of Bylaws for a Commission Meeting.

Various reports will be received, and we will act on several resolutions. Draft copies have previously been sent to the Members and updated versions are in the Members' folders. The Resolutions will be explained during the appropriate reports.

May I have a motion to adopt the Minutes of the March 20, 2017, Commission Meeting?

Call the roll, please.

**MOTION:** A motion to adopt the Minutes of the March 20, 2017, Commission Meeting was made by Chairman Hruby and seconded by Mr. Pakush. All Commission Members present voted to approve the Minutes.

**Chairman:** The Minutes are adopted. If there are no questions, we will proceed with the report of the Secretary-Treasurer, Mrs. Barber.

**Secretary-Treasurer:** The following items have been provided to the Members since the last scheduled meeting of the Commission on March 20, 2017:

1. Four Resolutions;
2. Draft Minutes of the March 20, 2017, Commission Meeting; and

3. Agenda for today's meeting.

We have included in their folders for today's meeting, the following additional documents:

1. Traffic Crash Summary Report, March 2017;
2. Traffic and Revenue Report, March 2017;
3. Total Revenue by Month and Year, March 2017;
4. Investment Report, March 2017;
5. Financial Statement, March 2017
6. Budget Report, First Quarter 2017; and
7. Various news articles.

**Chairman:** Thank you. Any questions for Mrs. Barber? We will now move on to the report of the Executive Director, Mr. Cole, who is a new daddy. We welcome your son into the world.

**Director Cole:** Yes, thank you, Mr. Chairman. Alden was born March 21, 2017. Mom and son are doing great and his siblings love him to death.

Very briefly, Commission Members may have noticed on the drive in today that construction season has started. On top of everyone's mind is the safety of our employees and contractors. This year, we have taken some additional steps to encourage and promote safety in our work zones. Last week, several Turnpike staff attended a "Toward Zero Death" Network Meeting in Medina. Staff from Safety Services, Marketing Communications and Engineering & Maintenance collaborated to create this Flagging Handbook for use on the Turnpike this year. At the end of March, we held a comprehensive construction engineering and inspection meeting with our contractors that emphasized our policies and work zone safety. In addition, Cory Skoczen, our Safety Services Manager, and John Hall, Safety Services Coordinator, are checking our work

zones and doing infield training with our employees. Of course, the most important thing is for drivers to operate without distractions and to move over and slow down in work zones. To help raise awareness, we held a customer appreciation day on Friday, April 7<sup>th</sup> with a clear emphasis on distracted driving and work zone awareness. I hope everyone maintains that focus, so that we can go with as few incidents as possible this year and certainly help prevent any fatalities.

That concludes my report.

**Chairman:** Thank you, Mr. Director. Are there any questions or comments? Hearing none, we will move on to the report of Jacobs Engineering.

**Director Cole:** Mr. Chairman, before Mafty reports on our current finances and revenue, we have the team from Jacobs Engineering here to overview the recommendation of the Commission about how we should collect tolls and provide customer support in the future. I would like to be clear that this is just an overview presentation today. Months of additional work will be required before a final report is brought to the Commission for approval later this year. We will also begin a very thorough stakeholder, community and public outreach effort to gain feedback before the Commission takes any action. Since I provided an interim update at the February meeting, we have refined the numbers and work diligently to craft an approach to modernizing our toll collection system without introducing significant revenue risk to our financial position. On the operations side, the recommendation you will hear will allow us to gain significant efficiencies without widescale organizational changes. A convincing majority of our 14,000 surveyed customers told us to remove gates and to make the use of our roadway more convenient. The plan being presented allows us to begin doing so in less than three years. I am very proud of the effort, focus and thoughtfulness of the Turnpike advisory team that continues to guide this project. It has been a pleasure working with the Jacobs' team of Rick Gobeille and Sean Tihal, who are here

today to make the presentation. They both did a great job understanding our operations, capturing data and providing thoughtful and meaningful insights from their experience around the country to help shape this plan. Rick and Shawn, please share what you recommend to the Commission.

**Rick Gobeille:** Thank you, Director Cole.

**Chairman:** Before you begin, please give us a little background about your company.

**Rick Gobeille:** Jacobs, itself, is a 60,000 employee, international engineering consulting firm. Within that, there is a group that is called the Infrastructure Consultancy, that I am the leader of. It is about thirty professionals that focus on toll roads, transportation, airports, revenue collection and that type of work. Myself, personally, I have been doing toll work since 1989. I actually did the original feasibility study for *E-ZPass*® and the original testing of what is the *E-ZPass*® technology in the early 1990's. We have been working with the Ohio Turnpike here, we did the work for the current *E-ZPass*® system, the strategic planning for that and we work nationwide. We work in about thirty of the fifty states, almost every one of them that has tolls.

We have a great deal of experience and background. In the process that we are going to talk about here, we work with an open mind. There isn't one solution. There is the right solution for each of our clients. I think we really stay true to that process here and as I go through how we did the work, I think you will see that in the information that is there.

**Chairman:** Thank you.

**Rick Gobeille:** (PowerPoint presentation is attached hereto as an Exhibit.) Why did the Commission undertake this effort? Well, the current toll collection system is coming to the end of its useful life. A lot has changed in technology over the past ten years. A lot has changed in the expectation of customers and a lot of things have evolved in the ten years from the last time that the system was turned over. We had set up for a consensus building process where we worked

through a whole series of steps, including establishing goals, doing an analysis, doing a risk analysis, and whittling down options until we got to what we truly believe is the preferred alternative for this system. In every project, you need two things to make it successful, which is a clear set of goals and a clear set of expectations of how it is going to work. A successful project may not be deemed successful if the expectations for it aren't realistic or in line with the goals of the project. The first step we did was to actually set up the goals and some of them may be in conflict with each other, and that is the whole key to the consensus building process we went through. The group decided that they wanted to achieve quality customer service and provide value and travel benefits to them. They wanted to do it in a fiscally responsible way, not to bankrupt the Commission, not to require high toll increases, to assure revenue collection is consistent and be financially prudent. They also wanted to be innovative, adaptive, forward looking, and progressive (*i.e.*, where is toll collection going, what is it the customers are wanting, how can the Commission best be positioned in the future?) to achieve all of their goals.

One of the processes we did was interview all of the staff members at the different levels to find out what their needs were and what was important to them, what they saw that needed to be improved, and what worked well. One of the things that came across, was the existing system was successful and it did meet the goals that were established at that time, but it is time to move on to new things. It is at the end of its useful life and is becoming very difficult to modify it, to improve it, and to find spare parts. There are some needs to try and improve how it functions operationally for the customers and for the staff to try and gain more efficiencies, and take advantage of new technology that is out there. As Director Cole mentioned, the customers would like to see some changes. They would like to see gates removed based on their satisfaction surveys. So, how can we provide a more convenient and efficient method of travel for the customers? We



did a lot of new surveys. We did the survey which was presented to you before to your existing customers, but we also did some license plate surveys to actually find out who the cash customers are. You are already familiar with the *E-ZPass*® customers, you know who they are, you know how they operate, and we did a license plate survey and we found out a great deal of the Commission's cash customers are from out-of-state. It is a different segment you need to work with and how to address them. The trucks are also from out-of-state that are paying cash. You may not know, but a great deal of your revenue is actually collected by the New York State Thruway Authority through the *E-ZPass*® accounts. It is similar with the cash payers. A great many of your truck users are not from Ohio and that was a consideration in how we looked at the alternatives.

I am going to highlight one of the items, which was presented to you before, which is the stakeholder survey results. 89% of the Commission's customers and 94% of the stakeholders, and that would be the truck operators, AAA and things like that, supported removing gates. The

Commission is one of the last agencies that does have gates on the toll collection system. Most of the other systems facilitate free-flow of traffic at lower or higher speeds, and I think that is one of the important things that we took out in the process we went through.

Some of the things that we found looking at the existing system is that it does work well, and the ongoing audit of it continues to function well and meet the needs of the system, but there is becoming a great lack of spare parts available for it, making it much more difficult to maintain. There are some national standards of interoperability that are out there necessitating a future need for *E-ZPass*® readers that can read more than one type of tag. There is a goal in the federal government to have everybody be interoperable of each other, not just *E-ZPass*®, but *E-ZPass*® with *SunPass*®, and *FasTrak*® in California, and it is time to consider replacing the system. This

is an interesting part of the process. Once we established the goals, we presented to the group a series of alternatives and in combination there was over three hundred potential alternatives we looked at for the future of toll collections and operation and customer service centers facilities for the Commission.

There were three main areas we looked at. One was the toll system configuration operations. Just to briefly describe that, you operate today what is called a ticket system. A vehicle gets on the Turnpike and gets off the Turnpike and they pay for the distance they travel and that is a ticket based system. There are other toll systems out there, which are commonly referred to as barrier systems, where each vehicle passing a fixed point pays the same toll. For example, a full-length trip might have ten barriers across the turnpike rather than just getting on at the Eastgate and getting off at the Westgate. There are advantages and disadvantages of those. There is also the ability to mix those to do part barrier and part ticket system, so those are all options that we looked at. There is the actual method of collecting revenue. Today, there are two methods of collection on the Turnpike, you collect with *E-ZPass*® and you collect with cash, but in a way, you really have three methods now: you have *E-ZPass*®, cash and credit cards, which introduces a whole new dynamic into the actual collection process. It is actually slower than cash.

**Director Cole:** But we have made it faster.

**Rick Gobeille:** We have made it faster, so we need to recognize a change in the dynamics of how people pay and conduct business day-to-day in the workplace.

Second, is the other method you have out there now, where you have the automatic toll payment machines, that is basically a cash or credit card transaction, but conducted without a collector.

The third area we looked at is how to actually operate the customer service center. Today, you operate your own, you have your own staff, own employees who manage the account with the customer, they handle the processing of payments, they handle the distribution of transponders, and you don't do any enforcement of violations today because you don't have any. You don't have people who can go without paying a toll, because you have a gate there. One of the other future collection methods that we looked at, was all electronic toll collection, which you probably read a little bit about, where there is actually no person involved at the point of collection. They either take an electronic transaction or an image of a license plate, and process the toll that way. The processing of that image would occur in a customer service center. So, we had to look at different alternatives to actually process transactions in the back office and what you do today. From those three hundred combinations, we whittled it down to fifty-six combinations that we did a detailed numerical analysis on. The first several we did much more of a qualitative pass/fail discussion on to narrow it down to sixteen different alternatives. In those, we did a comparative analysis of all of the factors that were involved, the capital cost of construction, the amount of revenue that can be collected out of each one of them, the operating costs that go with each of them. We did them numerically and then we also looked in to other aspects of it. For example, how would it be viewed by the customers, would they be viewed positively or negatively, is it a benefit to them and to the different stakeholders? A third level we looked at is how easy would it be to implement these different alternatives; how well do they translate out into the future? All of those factors went into an evaluation and we ultimately scored fourteen of the over three hundred different alternatives we started with to rank them against each other to see which were the most positive for the Commission.

I am going to describe what was identified as the best alternative for progressing forward. I have to point out; this is the best alternative as evaluated against the goals of the project. You remember that those goals were fiscally responsible, to provide good service and to be innovative and forward looking and this is the best combination of all of those. The system that is proposed is going to be a little bit complicated going through the words, but we will get to a map that will make it a little bit easier to understand. The plan is to implement highway speed *E-ZPass*® at the Eastgate and Westgate. What that means is if you have an *E-ZPass*® transponder, you can continue through the toll plazas at seventy miles-per-hour and you don't have to slow down or stop at all at both the Eastgate and Westgate. We would convert the Eastgate and Westgate to what we call "barrier toll collection." That means that all vehicles paying cash at those locations would pay the same fixed toll rate. We will show you potential rates that were worked out a little bit later in the graphic. We would also then move in to milepost 49 and milepost 214, new endpoints of the ticket system. So we would construct two new barriers across the roadway, both of those would also facilitate the seventy miles-per-hour high speed *E-ZPass*®, but they would be the beginning of the ticket system as it is today, so milepost 49 would act as the Westgate does today and milepost 214 would act as the Eastgate does today. In between those locations, we would remove nine toll plazas, they would no longer be there, but there would still be the access to and from the Turnpike from those, but the toll collection would not occur there. The remaining interchanges, the gates were removed for all of the *E-ZPass*® lanes, and at all the lanes at entry the gates would be removed, so it would facilitate free-flow of traffic at all of the facilities, not at the same highway speeds, but at ten to fifteen miles-per-hour and at some selected locations that may be a little bit faster, but all of those barriers of travel will be removed to make travel more convenient. We would replace the toll collection system hardware and software as part of this to facilitate to higher

speed and to be prepared for future generations of technology of toll collections. The *E-ZPass*® customer service center would continue to be operated in-house by Ohio Turnpike staff. It would be a little bit larger. There would be a little more transactions and aspects of the violations, the review of images, would probably be outsourced to another vendor to actually process the images to process the violation transactions. So, this is a map that shows you basically how it would change. The Eastgate and the Westgate become barrier systems and actually at the Eastgate we are only going to collect tolls in one direction, westbound into Ohio to compliment the Pennsylvania side that collects tolls eastbound into Pennsylvania, so there would be a two-way pair between Pennsylvania and Ohio on the Eastern section. The red interchanges become free, so there would be no toll collection at those locations and you can actually travel between those locations free of charge, free of paying a toll and then the green interchanges retain the current ticket based system of toll collection. So, what are the alternative benefits in impacts? Well one of the things is, we are going to provide technology and customer service improvements without introducing significant revenue risk. Those small interchanges in the east and west have very small volumes of traffic and there is a very low risk of revenue that is lost from there that can be made up throughout the rest of the system. For *E-ZPass*® customers going to full length of the Ohio Turnpike, they can go seventy miles-per-hour all the way, they never have to stop, the plazas along the mainline would be designed in such a way that there wouldn't be things blocking them from cash paying customers and be continuous free flow traffic for them. The *E-ZPass*® customers everywhere else in the system would also benefit from not having to stop for the gates, these would be slower and medium speed *E-ZPass*® exits at all of those interchanges. Then, as we pointed out, for travel within toll plaza 13 and toll plaza 39 and toll plaza 215 and toll plaza 234, trips within those areas would become free. There wouldn't be a charge for travel between those interchanges

because they wouldn't actually pass a point of toll collection, and eastbound trips into Pennsylvania at toll plaza 239 wouldn't be charged a toll either. So, what else does this mean?

Well, a full-length customer who will stop less, they won't stop at all with *E-ZPass*<sup>®</sup>, a full-length trip customer today is paying with cash will actually stop four times, so there will be more times they need to stop, they will need to stop at what is today the Eastgate and Westgate and at the two new barriers on the mainline, so there would be more stops for them. There will be some reductions in toll collection staff available to the Commission by the removal of those interchanges, some of them are even unstaffed currently, but an opportunity there to generate some operating cost savings. We estimated in this comparative analysis it was worth over \$230 million over the thirty-year period that we were looking at this analysis. There will be an increase in net revenue because of how the tolls would be structured and because of the savings in operating costs.

It would about a \$37 to \$40 million increase in net revenues over that same period of time all without changing any toll rates, without accounting for any administrative fees or costs that may come from violations. To start the program, there is approximately \$130 to \$150 million dollars of capital investment and a good portion of that is actually the removal of the toll plazas that are out there.

So, where is the process right now? We have identified what the preferred alternative is, now it needs to be fully identified where we do a little more detailed analysis on that specific one, rather than the comparative one of the different alternatives. There is some key policy decisions in the business rules that would need to be made. For example, we did mention that we didn't establish any kind of protocol for a violation such as what would the fee be or fine for that, so some business rules and things would need to be fleshed out for this change in the collection to actually work. A schedule would be developed with all of the milestones. A final strategic plan

report and then that would be brought to the Commission for approval. From there, we would continue the public and stakeholder outreach and go out there and explain what it is. There may need to be some legislative rulemaking and changes in there to address the ability to pursue violators or perhaps in the future to do all electronic toll collection. We would then go and get the contracts to procure the toll collection system and the construction that needs to occur, execute the project, and it is believed the timeline that this would work is in the 2020 timeframe to get this process through.

This is a progressive step to the future. It sets up a system for the Commission to get to the all electronic toll collection that some of the Commission's sister agencies are starting to pursue or in the process of pursuing. It gets you there in a fiscally responsible way. It moves you from where you are today, where you actually have gates and collect, into a system that can get you to all electronic tolling and it does it in a fiscally responsible way and I think it is a good sound program for the Commission to follow as a step for moving forward.

My presentation is complete, I would be happy to answer any questions.

**Director Cole:** Mr. Chairman and Commission Members, just two quick points of clarification before we get into questions. One, that we didn't specifically mention in the presentation is that the existing toll rates structure that is in place through 2023, the cents per mile the trucks and cars are paying today is in place in all of the numbers and analysis here. I wanted to be very clear on that, so when we talk about a barrier toll, that would be a specific calculated toll, but the underlying rate per mile is based on what our current approved toll schedule is. It is not a toll increase presented under these numbers, it is just that calculation to create the barrier calculation, but we anticipate maintaining the toll rate schedule that was put in place during the passage of the Jobs and Transportation Plan.

The second is on what Rick refers to as "free trips," I refer to them as "untolled trips," and just to be clear, there would not be a toll collected within those sections of the Turnpike because there would be no tolling infrastructure at those interchanges. So, if you got on at one exit and got off at the next exit there wouldn't be a toll collected. However, if you get on at any of those interchanges and leave the state you are going to pay the barrier toll. If you drive through the state, once you get to the ticketed part of the system, you would still pay within that. It is just within those sections where you see the red interchanges. Once you proceed on the Turnpike further than that, except for eastbound going into Pennsylvania, there wouldn't be any toll collected there, but every other movement outside of those sections, you are going to have a toll collected at the same rate that everyone else is paying and then *E-ZPass*® pretty much stays the same. One of the reasons we did what we did eastbound into Pennsylvania, just to be clear, is for those of you who travel in to Pennsylvania, you know that once you cross that line, you pay \$7.00 and then once you cross it, you can get off anywhere because they have that barrier system at the beginning. We have already seen some level of diversion because people are getting off the Turnpike earlier rather than traveling through the Pennsylvania Turnpike, so since they already have \$7.00 on their side, we are hoping we can get some of our traffic back on to the Turnpike heading east. But, they don't toll coming west, so that \$3.50 we would be charging coming back is significantly less than what Pennsylvania charges you going into their state, so we would be collecting that from people coming in to Ohio from Pennsylvania. Just a couple of points of clarification before we move on, Mr. Chairman. Thank you.

**Chairman:** Thank you. Any questions from the Commission Members.

**Senator LaRose:** Thank you, Mr. Chairman. One would be the investment that we have made in our service plazas and the untolled areas on the east and west side. Would there now



be decreased revenue at the service areas because people know that I can get off, go to the gas station, and essentially get back on?

**Rick Gobeille:** I am going to offer an opinion on that one. We didn't specifically look at it. For example, the Garden State Parkway in New Jersey operates that way. The cost of gas is established by the average rate of a number of gas stations in New Jersey and it actually generates revenue for them. Where people will then go on to the parkway to buy gas because it is a lower rate on the toll road than it is on the free road. There are many examples of toll facilities, I-95, the Kennedy Highway in Maryland, it is barrier, but they have their service plazas within three sections. The Connecticut Turnpike has no tolls at all when they took them away, but they have and continue to maintain and improve the service plazas around it. So, I am offering an opinion as I didn't do a calculation. I don't think that would be a risk to you and where they are, I am not sure, I have driven the road three or four times in my life, all the way out, the full length, and a lot of the interchanges, I don't think there are a lot of places to go just off the interchange, particularly in the western section.

**Senator LaRose:** With what the quality of the work we have done at our service plazas would be, they would compete and win in the free market environment that would exist here?

**Director Cole:** In addition to what Mr. Gobeille was saying, we didn't specifically analyze the numbers behind that in the projections you see here, but when Mr. Gobeille said an *E-ZPass*® customer, like an *E-ZPass*® truck driver wouldn't stop, well I almost interrupted to say except at our service plazas because the gas prices, our partnerships with Sunoco, the high quality of services and additional steps you are going to see the Turnpike take in the next year to get more information to our customers, more loyalty to them, issues like truck parking availability, knowing where the truck parking space are, is what drives them to your facility, not necessarily the toll at

the interchange, so we are working on that. Marty and I have begun discussing the potential impact of increased community use of our service plazas and again, we have to work through the numbers and the policies, but everybody has to remember there is a back gate to all of our service plazas because in some cases, like where Adam Greenslade lives, if you want to go to Starbucks you come to the Turnpike because there is a community lot behind our service plaza and they can come to that Starbucks or that Panera, which might be the best place in town and not a lot of people know that. Well, if there is no tolling in that specific area, we may be able to increase customer access to those plazas and open them up larger to the community, which could drive revenues up and use of our facilities there.

**Senator LaRose:** So, we have always had, I think, a good handle on limiting how many toll plazas we create. So, there is not an exit every two miles like you would get off a traditional interstate. If now this area is not tolled, are we going to get an onslaught of people saying we need an off ramp here? We need an on ramp here? Is that something we should expect?

**Chairman:** From the local merchants you mean?

**Senator LaRose:** And the local political groups.

**Rick Gobeille:** I would imagine in your normal course of business, you still get requests for those from time to time. Again, I didn't specifically analyze this, but I mean I know from working here and at other agencies that is actually a pretty common thing that people ask you for interchanges.

**Senator LaRose:** Right now, it is relatively easy to say though is it not just the interchange, we would have to staff it with toll collectors and everything, so it is a much greater expense.

**Rick Gobeille:** It could be an enhancement for you, too. You provide more access to the Turnpike from other locations.

**Chairman Hruby:** I can see the Senator's point.

**Rick Gobeille:** There is merit there, but again, we didn't specifically analyze that.

**Chairman:** To his point, if a business relies on that traffic, it gets off, and no longer are the majority of the vehicles getting off there, they are going straight through now, taking advantage of the system, revenues could diminish, at the same time the people that want to build at an interchange might come and ask the Commission to change the interchange to that location. It is just something that I think is very relevant in the future analysis.

**Mr. Pakush:** I have a question about the untolled sections. Is traffic data still going to be collected at those locations when you remove the tolls? Is there going to be infrastructure installed to pick up, even though you don't need to pay, are you going to collect the traffic data and how much is using the roadway in the untolled areas?

**Rick Gobeille:** I would imagine in the normal course of business that all of the toll roads even if they are free and toll free ones collect data from all of their interchanges. The toll authorities usually are really good gathering that data. It is as simple as putting in loops or something like that.

**Mr. Pakush:** That is what I am trying to get to, the flow of traffic counts.

**Chairman:** Let's go to the west end. There are four or five there that are marked in red meaning you can go through that area free. So, let's say I go through two of them because I work in that area, I am going to drive through some device that is going to record my information?

**Rick Gobeille:** I can't imagine it would record that it was the Chairman that went from here to here. It would record that this many cars got on here and this many cars got off there.

We would know that cars got on and off here; otherwise, essentially you retain the whole toll collection system if you are trying to keep track of who did all of these other movements.

**Chairman:** I understand getting on because you need that down the road, but getting off we are still going to record that number of cars that got off?

**Rick Gobeille:** The number that got off, correct. But not necessarily where you would know where that one got on, you would just know that someone got off there.

**Mr. Peterson:** When you talk about this whole process, did you look at the percentage of lost revenue?

**Rick Gobeille:** Yes. Through all of the different alternatives, there is different amounts of revenue. I will use the term of revenue that is at risk. There is different ways that the revenue is at risk. One of the ways it is at risk is when we did, in fact, change these interchanges to not collect tolls and there is an amount of revenue that was collected at those interchanges that you can't collect anymore. So, that was considered in the analysis. When you remove the gates,

today you don't *per se* have violation enforcement because your violation enforcement is the gate does not open and some interaction occurs there between a collector and patron. When you remove the gates there is going to be situations where a vehicle may go through that doesn't have a transponder or they may not have a valid account and those are called violators in our analysis. We made an assessment of how many people there would be in there and that's included in our revenue calculation as is the revenue that is not available to the Commission, but as we said in the presentation we didn't do any potential for recovering that revenue, that is not in our calculation because that requires a policy and legislative action and we didn't have one in there to set a number against it. So, there is money that could be generated to offset it, that would be generated through policy. The alternatives that we looked at, there was actually no cash collection. Then in that case,

there is wanting people who don't pay and then, perhaps, a traveler that may have a bicycle rack in front of their license plate and all of that was considered in our revenue analysis for the alternatives we looked at that did not have any cash collections. All of that was considered in there.

**Mr. Peterson:** Yes, Mr. Chairman, that was my biggest question was how do you go about collecting it with violators and have you built that into the numbers and all?

**Rick Gobeille:** Like I said, we built in that the revenue was not collected and we built into the system, the ability to charge fines and fees to the violators. But, we did not take any credit for that revenue because a policy hadn't been established. I believe that has to go through a rate setting process and things like that. So, there is revenue available, but it is not in our analysis.

**Director Cole:** Mr. Chairman, again point of clarification, within the models we have here where we talk about that net revenue enhancement, that net revenue amount is because we haven't calculated administrative fees for license plate transactions, or penalties for people who

don't, there is some amount of revenue loss in these models that we will make up for with those business rules once we get to that point. But, again, to be pretty clear, the license plate transactions and the recommendation you have before you are only about 2% of the transactions in the ticketed portion and 3 ½% of the transactions on the barrier portion. So, just a few million dollars in revenue, about \$4.5 million or so, is what is projected in the recommendation you have before you. So, to get to dollars, it is about \$4.5 million out of almost \$300 million in total revenue. However, when we looked at all AET going back to the hundreds of things we started with and the fifty-some and the fourteen, when you look at all AET, 1) the untolled trips if we went to barrier and I want to explain why have the barrier recommendation in there, is the cost of reformatting all of our interchanges for the cameras and the tolling at the thirty-one interchanges is significantly